

Justice-Involved Women: Developing an Agency- wide Approach

Three-Part Blended Learning Curriculum

Instructor's Guide

2017

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Justice-Involved Women: Developing an Agency-wide Approach

Overview of Training

- Approximately 40 hours of training divided into three phases with a blended learning format (e-learning, surveys, independent reading, coaching, webinars, in-class training with activities and videos).
- Size of class is in the 24-30 participant range with (6-8 teams of 3-4 persons based on state/agency size and needs).
- Teams are made up of correctional leaders, managers and policy-makers/influencers/implementers in prisons, jails and community corrections.
- Teams are asked to make a commitment to this blended learning training process which will take place over multiple months.

Goal of the Training

Agencies and jurisdictions will use evidence and knowledge that is gender-informed to make systemic changes that improve outcomes for justice-involved women. This may include changes to improve targeting of resources, developing alternate sanctions reduce need for disciplinary responses, and establishing services that are relevant to women.

Improved outcomes for justice-involved women can address risk and harm reduction (personal and community), reduced recidivism rates, increase opportunities to strengthen families, increase self-efficiency/efficacy, and successful reintegration/re-entry.

The goal/end product of this training is to produce a solid draft of an “action plan” to take back to each participant’s correctional agency. The action plan will incorporate evidence-based policies, practices and programming to assist correctional professionals to help women lead productive, non-criminal lives in the community. The action plan is the best thinking of the teams enhanced by the training information. The document is a “draft” since it is the beginning of the action plan process which will continue when participants return and work with their assigned coach.

Training Objectives

The training objectives are designed to accomplish the above goal. The trainees will learn to:

Practices

- Understand and incorporate gender-informed principles into policies and practice.
- Create a planning framework for implementing gender-informed policies and practices that promote safety, stabilization and self-sufficiency, and then operationalize the knowledge.
- Implement promising and evidence-based gender-informed strategies.
- Integrate tools and approaches from other initiatives designed for or have clear applicability for justice-involved women.
- Sustain effective gender-informed services, programs, structures and processes; concretize the changes to ensure sustainability regardless of leadership or staffing changes.

Leadership and Sustainability

- Exhibit leadership skills to establish a gender-informed framework and process to transform culture, programs and services.
- Use research, knowledge and practice in designing their agency-wide approach.
- Build commitment within the agency by engaging other leaders and staff in the adoption and application of gender-informed evidence and best practices for women (e.g., coaching; project management; communication plan that shares information across the agency, with stakeholders and up and down the organizational structure).
- Utilize a coaching model to help project leaders build capacity and manage change in the agency.
- Learn how to identify champions internal and external to the agency to help accomplish gender-informed goals.
- Identify and manage common individual and systemic roadblocks to success.

Monitoring and Partnerships

- Create a stakeholder network across agencies. Share stories, inspiration and vision such as successes with others through blogs, social media and other technologies; develop a “community of practice” (work groups of colleagues).
- Measure, capture, document measurable change (cost-benefit/ROI) and establish data-driven results.
- Offer multiple strategies through active engagement of partners.

Timeline

Phase	Blended Learning Format	Year	Month
Phase 1	E-learning, independent reading, survey	Year 1	Month 1-4
Phase 2	In-class Training (2.5 day)	Year 1	Month 4-5
Phase 3	Coaching	Year 1	Month 5-12

How to Use the Curriculum Instructor's Guide

Curriculum Layout

The “Instructor’s Guide” contains useful information for the trainers of this curriculum. It is written in an easy, step-by-step format. Each topic is written in bold with the lesson plan indented below it. Each dot indicates a new point to teach or a separate activity. The guide provides instruction on how to teach the topic, speaking points in *italics*, how to break trainees into small groups and how much time to allow for each section. Audio-visual segments (DVDs) are also interspersed throughout the lessons.

The lesson plan modules may be arranged in a variety of ways to meet the specific training needs of trainees. The suggested format for the training is teaching the modules in the numeric sequence spread over two and a half days with a one-hour lunch period and breaks each day.

Icons indicate the time needed for that section, the workbook sections referred to for that module and if audio-visuals are used.



A red book icon indicates that the instructor needs to refer trainees to their participant workbook.

Audio-visual aids including videos/DVDs and a PowerPoint® slides, are used throughout the training. Pictures of the actual slides are not put into the instructor’s guide so that they can be updated and customized for the group and jurisdiction. At the beginning of each slide program or video, the following logos will appear in the lesson plans:



for video



for PowerPoint®

Adult learning theory suggests that for maximum attention and retention, “non-lecture” activities be interjected approximately every seven to ten minutes. Group activities and participant involvement are a big part of this training. Therefore, the curriculum is designed to be interactive, with instructor-generated questions for trainees, some small group discussion, etc. Group interactions with the trainer involving mutual inquiry, shared experiences and personal observations help keep the training interesting and relevant.

The word “Discuss” instructs the facilitator to talk about that particular subject in the large group. It is an opportunity for full participant interaction, not small group work. The word “Activity” appears whenever there is an individual or small group exercise. General

discussion questions posed to the full group by the instructor are not listed as an “activity.”

People have preferences as to how they want to learn – some are visual learners, some need to experiment and be more “hands on”, while others prefer a lecture format. Mix up your teaching style to reach the maximum number of people. Explain things in different ways and monitor your audience for comprehension through verbal interaction, watching their behavior, and feedback.

The Instructional Theory into Practice (ITIP) lesson plan format draws upon prior knowledge of the audience and uses both covert (think, imagine, picture this) and overt (demonstration) approaches. This interactive, adult learning approach subscribes to the notion that there are many different types of learners that absorb information in different ways and ensures that examples and lessons are relevant to the adults’ lives and realities.

If you use the PowerPoint®, do not read or talk “to” the slides. Use a remote control to forward the slides so you are not forced to remain by the equipment the whole time you are teaching. Practice using the equipment before the training.

It is suggested that you allow six to eight hours to review the materials before you instruct the program and plan activities. You should be able to present the materials comfortably with the lesson plan, your notes and the PowerPoint® as a guide.

Selecting Trainers

It is NIC’s intent that the trainers of these materials be experienced in the field, have worked with justice-involved women and are knowledgeable about the content in order to maintain the integrity of the curriculum.

Those in charge of selecting speakers for the training, might want to use the following criteria to ensure a consistently representative faculty:

1. Commitment to and interest in the topic of gender-informed strategies, strengths-based work, and improving criminal justice environments.
2. Content expertise
3. Effectiveness as a speaker
4. Diversity (race, gender, age, ideas)
5. Credibility
6. Availability
7. Reliability
8. Technologically competent with presentation technology (e.g., PowerPoint®, webinar, e-learning, other current technologies)

Have speakers provide current “bios” for their introductions and for inclusion in the participant materials. Each biography should be two to three paragraphs in length and highlight the speaker’s relevant experiences and qualifications. It should also include

contact information for the speaker such as address, phone number, fax number and email address.

In addition to the main trainers, you may want to include guest speakers for some of the modules. Talk with selected faculty members and representatives from host site for local suggestions and assessment of strengths. Have personal contact ahead of time with the guest speakers to articulate your expectations and needs, to answer any questions they may have, and to describe the audience so that their information is targeted appropriately. For example, if correctional staff or justice-involved women are going to be presenting or sitting on a panel discussion, it may be helpful to give them written guidelines with key talking points or topics. If a guest speaker has handouts, pre-arrange for copying and distribution.

Trainers are encouraged to attend other trainings offered by the National Institute of Corrections' on justice-involved women (e.g., E-learning, Operational Practices) and to read the current research and literature on justice-involved women.

Prior to the Training

Trainees will be given a list of things they are to bring to the Phase 2 on-site training. This will also be reviewed at the Phase 1 Webinar. They include such things as: statements of values, departmental principles or guidelines for working with justice-involved women; reports of task forces or committees that have addressed gender-specific programming, and any other materials they may need as reference when working on their systemic action plans. If the trainees do not have these kinds of materials, this could be a sign regarding their readiness. The instructor/coach will be assigned their three teams prior to the webinar and should work with the teams to help facilitate gathering the required items.

Set up a "Resource Table" in the training room. Encourage trainees to bring information on their justice-involved women program(s) to share on the training resource table. This might include brochures, fact sheets, reports or display pictures with captions, outcome data or research reports.

Trainers need to be sure all classroom space, equipment and audiovisual materials (e.g., DVD) have been ordered or reserved in advance.

Trainers should confirm with the organizer that the "logistics" have been arranged (e.g., hot and cold beverages, food for lunches and breaks, special needs, room set-up, parking, printing of materials, nametags, contracts). NIC has a sample checklist to assist training organizers.

Setting up the In-class Training Room

The suggested audience size for the training is approximately 24 people.

The training room should accommodate classroom-style (round or rectangular tables known as “pods”) tables and movable chairs with the teams together at the same table. This works well for moving into small group discussions and the tables for trainees who wish to take notes. The least effective seating layout in terms of learning and attention is “auditorium” with everyone in rows looking towards the front of the room. You may also want to try a “chevron” layout with tables in a “v” from the middle of the room. Since each team consists of three people, you will want one or two teams in each “pod.”

Set up a table in the back of the room for faculty to be seated when not presenting and to have upcoming audio-visual programs, materials, props, etc.

Test all audio-visual materials (PowerPoint, DVD) and equipment (projector, lap top, microphones) and be sure supplies are in the room (easel pad paper and pens, pen and paper for trainees) in the room to be sure they work. The resources needed for each module are listed at the beginning of that module.

Each participant should have an unobstructed view of the front of the room, be able to see the speaker and easel, audio-visual screen and other training aids.

Good ventilation and room temperature is important for an effective and comfortable training environment.

Make sure restrooms are located nearby, unlocked and easily accessible.

Have water available for speakers and microphones, if needed. Good acoustics are also important to facilitate good communication. If the room is too large or not sound proof to outside noises, it may not be an effective training location. A lapel microphone may be an option for some speakers so they can be heard while moving around the room.

The lighting in the room should be able to dim or turn off for showing PowerPoint® slides and/or DVDs.

Be sure the trainee refreshments are set up (e.g., water, coffee, tea, soda, non-caffeine alternatives, juice) for the morning and afternoon each day.

Be sure the training site and materials meet the Americans with Disabilities Act (ADA)/508 Compliant requirements for any special needs of trainees and speakers. Registration applications should ask trainees if they have any special needs or accommodations.

Teaching Tips

Team Teaching

As you will most likely be training in teams, prior to the presentation meet or talk (e.g., conference calls) to the other team member(s) about who is the lead instructor, teaching methods and styles of delivery. You might also wish to discuss:

1. Whether everyone feels comfortable if one team member interjects examples or ideas during another team member's presentation
2. How all team members will receive the same background information about trainees, key issues, etc.
3. Goals and procedures for group activities
4. Who will lead discussions following group activities
5. Back-up plans in case a team member is unable to train at the last minute
6. Whether it is useful to designate a "team leader" who introduces the next speaker, providing a common thread throughout the training
7. Who will summarize each section and direct participant questions, etc.

A team meeting the day or evening before the training is suggested to finalize the training details and logistics.

At the end of each training day, meet together as a team, debrief the training and review daily participant suggestions and comments (you have the option of giving out index cards at the end of each day for trainee feedback. The formal NIC evaluation is given at the end of the entire training, not daily). The instructors may want to cover the following topics:

1. Discuss if the level of information and delivery style is appropriate
2. Discuss overall strengths and weaknesses
3. Review and discuss participant daily evaluations – make adjustments as needed

Teaching to Maximize Effectiveness

Arrive at the training room at least 30 minutes before the in-class session begins. This allows time for you to be sure all the audio-visual equipment is there and functioning and that the appropriate room arrangements have been made.

Know the audience in your training. You should have information from the Phase 1 survey and meeting the teams in the webinar that will help you know the needs and readiness of the trainees. It is important that you have a good sense of what they want to learn and achieve, their level of experience, any particular group dynamics among the players, and political issues of significance with each represented team. Use the information from the Phase 1 on-line survey to help you understand and learn as much

as you can ahead of time about trainees' issues, concerns and profile data. Time is also set-aside at the training itself to discuss this information with trainees.

Tape on the wall two or three large blank pages from the easel pad for "Parking Lot" issues and questions. These issues will be addressed throughout the training.

Ask trainees to turn off the ringers on their cellular phones (encourage the use of less disruptive notification systems such as vibration or digital display).

Review your own commitment and passion for the topic of making things better and more effective for justice-involved women. If you have some doubts or hesitation about this, notify NIC so they can make adjustments in the training team.

Review your values and attitudes towards women and incarcerated women.

Be sure that your language throughout the training is gender appropriate. Avoid terms that are not gender inclusive (e.g., avoid "a two-man post" and use "two staff" or "two person post").

The term "justice-involved women" is the current term of art to refer to women who are incarcerated in jails and prisons, as well as those on community supervision. The terms "offender", "inmate" or "prisoner" may be used if that is how it appeared in a research project or article. In addition to "justice involved women", trainers are encouraged to use, as appropriate, the terms most commonly used by the audience agency(s), such as "detainee" or "resident."

Keep language simple and avoid jargon; be clear. If acronyms or abbreviations are used, explain what they mean (BJA, NIC, etc.).

Move around the room as you talk. Convey your energy about the work to your audience. Do you believe what you are saying?

Be supportive, non-judgmental, and give compliments to trainees: "That's a good question. I am glad you raised that..."

Encourage trainees to share their own experiences at the appropriate places but keep the pace moving along. Encourage them to be creative and non-traditional to bring about better results in their agency. Help trainees to use training as an opportunity to reflect on desired outcomes.

After you answer a question from a participant, ask them, "Does that answer your question?" "Do you agree?" or "Has that been your experience as well?"

Challenge trainees to speak up and be engaged in order to reduce passivity.

Always try to get clear answers from trainees and make sure that you fully understand the comments made. Ask for clarification if necessary. Encourage trainees to be

succinct in voicing their comments and concerns. Help trainees who have difficulty presenting information by asking, “Is this an accurate summary of what you are saying...?”

Continually remind trainees that the information presented during this training is a combination of specific strategies and concrete examples as well as a philosophical change in the “way of doing business.” The programs are not “cookie-cutter” that always can be transferred exactly from one correctional program to another. Each agency is unique, with particular issues, demographics, crime characteristics, personalities and existing structures. Many of the curriculum concepts, such as using data and research on gender to guide policy and actions, are transferable. Pose scenarios for the jurisdictions or for the different types of community corrections agencies and programs represented. .

During the first break, informally seek honest feedback from an audience member or co-presenter. Ask for his or her perception of the training including room temperature, pace, appropriateness of information, presentation style, to level of participant’s interest and engagement. Make adjustments as needed.

Allow adequate time for moving into small group exercises and make certain there is adequate, pre-arranged space for the small groups.

Many activities involve writing ideas on an easel pad. Be sure you can do this easily and still facilitate/instruct. Also, be sure to write large and legibly. You may also want to ask a participant to write the responses for you.

Be flexible... issues arise, coffee is late, cell phones go off, audio-visual equipment stops working, people cough, egos emerge, guest speakers get stuck in traffic, someone forgets the name tags and trainees have their own agendas. When you anticipate these things before they occur, some can be avoided but some simply cannot. Just keep going, recognizing that the best-laid plans sometimes have to be adjusted. Always have a back-up plan. A prepared trainer can go with the flow and still successfully present the materials.

Handling Challenging People

Do not take things personally or become defensive. Know your “hot buttons.” It is important to encourage trainees to think critically and to challenge the effectiveness of correctional programs and policies for women. It should be a safe place for trainees to challenge and ask questions about what is contained in the curriculum.

Be sure your values and emotions are in check prior to teaching. Anticipate emotionally charged challenging questions such as, “what about men?” “this is too feminist,” “this is special treatment for women.” Develop a response that is compelling, clear, non-defensive and reasonable such as, “gender-informed programming should be

implemented for men as well, but this training is going to focus on women”, “it is not ‘special’ treatment, but rather, correctional responses that are more likely to work and be effective with women”, or “if addressing women’s needs so that they will function successfully in the community and not re-offend is labeled ‘feminist’, then I guess that is what we are going to talk about.” Specific examples of responses are given in the lesson plans. Choose words that are not “hot buttons” for people, but rather help further communication and understanding.

During the training, manage the discussion and do not let one or two people dominate. Start a session by saying “I would like to start this discussion by inviting people who have not spoken much to give us their thoughts”. It is important that different viewpoints get expressed. Possible responses to difficult, controlling or domineering people include:

1. Politely interrupting them with a statement such as, “May we put that on the back burner for the moment and return to it later?” or “If it is all right, I would like to ask if we can discuss that on the break. There’s another important point we still need to discuss and we are running a little short of time.”
2. You can also jump in at a pause with, “That’s a good point, let’s hear from some of the others” or redirect the conversation. “We have had several comments in support of this idea, are there different viewpoints in the room?” This gives the control of the training back to the instructor.

A good instructor allows everyone a chance to speak and facilitates opportunities for less vocal people in all parts of the room to be heard. If people do not participate in discussions or appear to have their minds elsewhere, call on them by name to give an answer, opinion, or recount an experience. However, do it in a way that does not put the person on the spot. Then praise the person for responding.

If a participant is belligerent or rude, walk closer to the person, even standing next to them.

If a discussion escalates and becomes highly emotional, divert the conversation away from the people participating before it gets out of hand. “I think we all know how John and Bob feel about this. Now, does anyone else have a comment?” or validate their feelings or emotional reactions by saying something such as, “clearly this is a very emotional and difficult issue with differing viewpoints.” Intense emotions can also be a good indicator of major issues in the system (which is made up of people and values). You may want to give extra time for discussion to see if some clarity or understanding can come out of it.

Another option with heated discussions is to take a break, talk to the person in private, and be clear but polite with expectations

As you go along, register steps of agreement and disagreement with trainees. “Am I correct in assuming we all agree (or disagree) on this point?” or “you may simply agree to disagree on certain issues since each jurisdiction is unique.”

If you need to control the person who “knows it all,” acknowledge the person’s contribution and then ask others in the group for their opinion of the person’s statement.

If you have a person who “knows their job and doesn’t want to be told how to do it,” explain that s/he is just the individual you are looking for, that the training is to exchange ideas and points of view that will benefit everyone and that their experience will be valuable to all. Make this person a resource and give them “responsibility” for others’ learning while keeping it under control and accurate.

When a discussion gets off track, say, “Your point is an interesting one, but it is a little different from the main issues here. Perhaps we can address your issues during the break or after the session.” Or, “We will be talking about that later in Module X. Your points are very interesting. Could you hold those thoughts until we get to that module?”

If a person speaks in broad generalizations ask, “Can you give us a specific example on that point?” or, “Your general idea is a good one, but I wonder if we can make it even more concrete. Does anyone know of a case where...?”

If a person in the group states something that is incorrect (yet no one addresses the misinformation due to the person’s status), avoid direct or public criticism. You can graciously correct the information or use indirect methods to set the record straight such as analyzing a similar case or situation in another jurisdiction where the correct information is given. You may also want to talk to the person at the break and share the correct information.

You may choose to allow fellow trainees to respond to difficult people in the class.

Generally, try not to interrupt trainees. Be respectful and listen. Be open, yet firm, and manage the discussion keeping in mind what is best for the whole group.

Responding to Questions

Anticipate the types of questions trainees might ask and plan how to handle them. Before you begin the training, prepare a list of questions you are most likely to get and prepare your answers. You can also use these questions to stimulate group discussions throughout your presentation. Make sure your questions are designed to get thoughtful reactions to specific points. Do not ask questions that can be answered by a “yes” or “no” response. Open-ended questions generate better audience participation.

Questions from trainees are a good indication of the level of their awareness, attention and interest in your subject. Questions have value in helping you to clarify, modify or fortify points or to test an idea for its potential. Remember that answering a question is impromptu. Pause if you need to, relax, maintain your poise, and keep your answers short and to the point. Give the short answer first (e.g., yes/no) then explain why.

Some correctional issues or questions involving gender-specific programming may border on giving legal advice. Be clear about when it is appropriate to refer a question to a lawyer in the group if he or she is willing to answer or suggest the questioner check with his or her own agency's attorney.

If you do not know the answer to a question, acknowledge that fact and offer to find the information or check with the audience to see if anyone knows the answer. Not all questions have to be answered. Sometimes the most effective response is one that allows the audience to keep thinking about the issue or concern. Keep a running list of questions or issues on a displayed easel pad ("Parking Lot" issues) and come back to the questions throughout the training.

When a person asks a question, restate the question for the entire group and direct your answer to the audience, not the individual questioner. Make sure everyone has heard the question. Rephrase questions that are unclear or rambling. Diffuse emotional questions by politely asking for clarification.

Avoid a one-to-one conversation/argument with a trainee.

Timeline and Checklist for Training Planner

Timeline	Task	Completed?
Month 1	Select and confirm date and location for Phase 2 on-site training; confirm trainer/coaches;	
Month 1	Send out NIC announcement of training	
Month 2-3	Select trainee participants; send notice of selection to trainees along with description of Phases 1, 2 and 3 of the training. Also send the required reading list with links.	
Month 2-3	Email the Organizational Readiness on-line survey to trainees; tabulate results and give to the coaches prior to the Phase 2 on-site training. Assign the trainer/coaches to their teams based on readiness survey results.	
Month 4-5	Phase 2: On-site training	
Month 5-12	Phase 3: Coaching and follow-up with trainee teams for the next four to six months	

PHASE 1

Number of hours Expected of Training Participants by Phase

Phase 1 – E-learning, reading	8 hours
Phase 2 – On-site classroom	32 hours
Phase 3 - Coaching	As needed

Materials Participants are Asked to bring to the Phase 2 On-site Training

Participant *teams* are asked to gather and then bring the following materials to the Phase 2 on-site classroom training. (Note: the instructor/coaches have the option of asking the participants to send an additional copy of the materials to them before the on-site training but this may not always be a realistic option due to cost, time, logistics):

1. The top issues or problems on which they wish to work as a team (this can be the description they submitted to NIC with their application regarding outcomes and what the team wishes to achieve);
2. The following materials which will be used in the team small group activities:
 - a) Vision and mission statements
 - b) Goals and objectives for agency/organization
 - c) Agency strategic plan
 - d) Organizational chart - structure
 - e) Relevant justice-involved women policies and procedures
 - f) List of program services for women
 - g) Data from last 12 months that show women's offenses and length of stay; population profiles; population projections. Recidivism data, if available. Data that shows disciplinary reports, revocations, etc. Be sure with all your data that is it disaggregated between males and females.

It is suggested that participants complete the Phase 1 requirements in the order listed here: (1) e-learning, (2) then independent reading, and (3) then the on-line readiness survey.

E-learning

Participants will be required to complete Courses 1, 2 and 3 of the NIC “Justice-Involved Women” e-learning curriculum prior to Phase 2 of the training. To connect to the course, the trainees need to go to the NIC Learning Management website at the end of each course description.

Course 1: *“Who are Justice-Involved Women: Research and Theory?”* The objectives of the course are to define evidence-based and gender-informed practices; describe why the research on gender matters; discuss the risk factors that contribute to justice involvement for women; discuss the pathways for women entering the justice system. This course covers what the correctional research tells us about justice-involved women; what we know about justice-involved women; why it is important to incorporate this information into our work with justice-involved women; critical issues for justice-involved women; gender differences; and the pathways that lead women to justice involvement. Go to: <http://nicic.gov/training/nicwbt46>

Course 2: *“Interpersonal Violence.”* This course provides an overview and definitions of interpersonal violence (IPV), the experiences and impact on justice-involved women and examples of strategies to mitigate the effects of IPV. Although interpersonal violence is experienced by both men and women, the overall content in Course 2 is more relevant to the women involved in the criminal justice system, both institutional populations and those under community corrections supervision. Go to: <http://nicic.gov/training/nicwbt47>

Course 3: *“The Effects of Trauma on the Lives of Justice-Involved Women.”* The objectives of the course are to recognize the significant prevalence of trauma in the lives of justice-involved women; explain the relationship between untreated trauma and the physical and psychological affects that can occur; recognize specific behaviors of justice-involved women as adaptations to deal with the impact from their traumatic experiences; and describe how addressing trauma can lead to positive outcomes for justice-involved women. Additionally, the course covers defining trauma and the importance of addressing it; the prevalence of trauma in the lives of justice-involved women; the Adverse Childhood Events (ACE) study; understanding symptoms and adaptations; and how addressing trauma can lead to positive outcomes for justice-involved women. Go to: <http://nicic.gov/training/nicwbt48>

Each course has one hour of seat time. Watching Courses 4 (*“Effective Gender-Informed Practices”* <http://nicic.gov/training/nicwbt49>) and 5 (*“Building Individual and Organizational Resilience”* <http://nicic.gov/training/nicwbt50>) is encouraged but is optional for trainees. Courses 1-4 focus on what we know about justice-involved women, promising approaches and practices that guide our work.

Course 5 addresses the potential impact on overtime corrections professional who work with justice-involved women. Each course incorporates exercises, video clips, case studies, worksheets, handouts to use on the job and references to support further learning.

Phase 1: Independent Reading

Trainees are required to read the first four articles listed below prior to the Phase 2 on-site training and are encouraged to continue reading other articles and books on the list that are relevant to their agency and issues. Most of the articles are available on-line.

Required Reading

- Bloom, B., Owen, B., and Covington, S. (2003) *Gender-Responsive Strategies: Research, Practice and Guiding Principles for Justice-involved Women*. (read summary version). National Institute of Corrections, Washington, D.C. Available through the NIC website, <http://nicic.gov/library/020418>
- Ney, B., Ramirez, R., Van Dietsen, M. (2012) “*Ten Truths that Matter when Working with Justice-Involved Women*.” National Resource Center on Justice-Involved Women. Bureau of Justice Assistance, Washington, D.C. Available through: http://cjinvolvedwomen.org/sites/all/documents/Ten_Truths.pdf
- VanVoorhis, P. (2013) Women’s Risk Factors and New Treatments/Interventions for Addressing Them: Evidence-based Interventions in the United States and Canada. Paper. <http://community.nicic.gov/blogs/nic/archive/2014/09/30/new-in-the-library-women-s-risk-factors-and-new-treatments-interventions-for-addressing-them.aspx>
- Benedict, A. (2014) Using Trauma-Informed Practices to Enhance Safety and Security in Women’s Correctional Facilities. National Resource Center on Justice-Involved Women. <http://cjinvolvedwomen.org/sites/all/documents/Using-Trauma-Informed-Practices-Apr-14.pdf>

Optional Reading

(This list was developed by the National Resource Center on Justice-Involved Women and is located in the Participant Workbook)

Research Summaries

- *On Behalf of Justice-involved Women: Women’s Place in the Science of Evidence-Based Practice*, Pat Van Voorhis, 2012 <http://cjinvolvedwomen.org/wp-content/uploads/2016/10/Consumer-Guide.pdf>
- General research on justice-involved women: <http://cjinvolvedwomen.org/sites/all/documents/Publication%20copy%20of%20VoIlmer%20address.pdf> (and) <http://cjinvolvedwomen.org/wp-content/uploads/2016/05/EB-GR-Programs-for-Women-4-2016.pdf>
- *Gender-Responsive Strategies* <http://cjinvolvedwomen.org/wp-content/uploads/2016/05/EB-GR-Programs-for-Women-4-2016.pdf> gies:

Research, Practice, and Guiding Principles for Justice-involved Women, National Institute of Corrections & Owen, Bloom and Covington, 2003 (full document)
<http://static.nicic.gov/Library/018017.pdf>

- *Gendered Pathways: An Empirical Investigation of Justice-involved Women's Unique Paths to Crime*, Emily Salisbury, 2007:
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Women's Risk Needs Assessment

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<http://www.uc.edu/womenoffenders.html>
- *Women, Girls, & Criminal Justice*, Volume 10(6), 2009:
<http://www.uc.edu/content/dam/uc/womenoffenders/docs/WGC.pdf>
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Addressing Trauma

- *Creating a Trauma-Informed Criminal Justice System for Women: Why and How*
<http://gains.prainc.com/cms-assets/documents/62753-983160.ticiforwmn.pdf>
- *Women's Pathways to Jail: The Roles & Intersections of Serious Mental Illness & Trauma* https://www.bja.gov/Publications/Women_Pathways_to_Jail.pdf
- *Addressing Histories of Trauma and Victimization Through Treatment*, GAINS:
<http://gainscenter.samhsa.gov/pdfs/Women/series/ddressingHistories.pdf>
- Lynch, S., DeHart, D., Belknap, J, Green, B. (2012) "*Women's Pathways to Jail: The Roles and Intersections of Serious Mental Illness and Trauma*. US Department of Justice, Bureau of Justice Assistance. Washington, D.C.
<http://cjinvolvedwomen.org/sites/all/documents/Using-Trauma-Informed-Practices-Apr-14.pdf>
- SAMHSA (2012) *Creating a Trauma-Informed Criminal Justice System for Women: Why and How*. Substance Abuse and Mental Health Services Administration. Rockville, MD <http://beta.samhsa.gov/nctic>

Visitation

- *The Effects of Prison Visitation on Offender Recidivism*
http://www.doc.state.mn.us/publications/documents/11-11PrisonVisitationResearchinBrief_Final.pdf
- *Inmate Social ties and the Transition to Society: Does Visitation reduce Recidivism?* http://www.sagepub.com/mssw3/overviews/pdfs/Bales_Article.pdf

Engaging Families

- *Coaching Packet on Engaging Offenders' Families in Reentry*
<http://www.cepp.com/documents/Engaging%20Offenders%20Families%20in%20Reentry.pdf>
- *Prisoners and Families: Parenting Issues During Incarceration*
<http://aspe.hhs.gov/hsp/prison2home02/Hairston.htm>
- *The Impact of Parental Imprisonment on Children*
<http://www.guno.org/geneva/pdf/humanrights/women-in-prison/ImpactParentalImprisonment-200704-English.pdf>
- *Focus on Children with Incarcerated Parents*
<http://www.aecf.org/KnowledgeCenter/Publications.aspx?pubguid=%7BF48C4DF8-BBD9-4915-85D7-53EAF9C941189%7D>
- *Vera's Family Justice Program* <http://www.vera.org/centers/family-justice-program> and <http://www.vera.org/blog/value-keeping-parents-home>

Parenting Programs

- Directory of Evidence Based Parenting Programs as selected by What Works, Wisconsin: <http://whatworks.uwex.edu/Pages/2parentsinprogrameb.html>
- Incredible Years that (selected as a model program by the Center for Substance Abuse Prevention (CSAP), the Office of Juvenile Justice Delinquency Prevention (OJJDP) and as a "Blueprints" program by OJJDP):
<http://www.incredibleyears.com/program/parent.asp>
- Positive Parenting Program: <http://cbpp-pcpe.phac-aspc.gc.ca/intervention/632/view-eng.html>
- Parenting Program: Inside Out (Oregon program)
<http://www.parentinginsideout.org>

Reentry

- NRCJIW's website: <http://cjinvolvedwomen.org/community-reentry>
- National Reentry Resource Center:
<http://www.nationalreentryresourcecenter.org/library/women-library>
- Up-to-date information on women and reentry. <http://cjinvolvedwomen.org/wp-content/uploads/2016/07/Reentry-Considerations-for-Justice-Involved-Women-FINAL.pdf>

Mentoring/Peer Support

- Mentoring Women in Reentry, WPA:
<http://www.wpaonline.org/pdf/Mentoring%20Women%20in%20Reentry%20WPA%20Practice%20Brief.pdf>
- Engaging Women in Trauma-Informed Peer Support:
<http://www.nasmhpd.org/ota/NCTIC/PEG%202012/PEG%20Full%20Document.pdf>
- Building Offenders' Community Assets Through Mentoring, Center for Effective Public Policy:
<http://www.cepp.com/documents/Building%20Offenders'%20Community%20Assets%20Through%20Mentoring.pdf>

General/Operations/Organization

- Fact sheet on justice-involved women <http://cijinvolvedwomen.org/wp-content/uploads/2016/06/Fact-Sheet.pdf>
- Benedict, A. (2015) Gender Responsive Discipline and Sanctions Policy Guide for Women's Facilities. Center for Effective Public Policy/Center for Justice-Involved Women.
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- Gehring, K., Van Voorhis, P., & Bell, V., (2009) "What works" for female probationers? An evaluation of the Moving On program. University of Cincinnati.
- Information on "Disciplinaries" and "Tip Sheets" on issues dealing with justice-involved women is available through the Center for Effective Public Policy. www.cepp.com

Organizational Change

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- Cohen, D., Kotter, J. (2002) The Heart of Change: Real Life Stories of How People Change their Organizations. Harvard Business School Press; Boston, MA
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- Moss, A. (2007) *PREA Implications for Women and Girls* Corrections Today: August 2007
- National Institute of Corrections, “Girls Adjudicated as Adults” <http://nicic.gov/library/031370>
- Robinson, D., Van Dieten, M., Millson, W. (2012) *The Women Offender Case Management Model in the State of Connecticut*. Journal of Community Corrections. Vol. 21, Number 3, Spring 2012.
- Substance Abuse and Mental Health Services Administration (2011). Addressing the Needs of Women and Girls: Developing Core Competencies for Mental Health and Substance Abuse Service Professionals. SAMSA. Rockville, MD.

You are encouraged to go to the website: (www.cjinvolvedwomen.org) for infographic and videos, jail tip sheets and other useful materials.

Phase 1: On-Line Survey

In Phase 1, NIC will send all trainees an electronic on-line survey after the Webex. The results will need to be reviewed prior to the on-site training by the trainer/coaches so they have a better understanding of their teams. There are two ways this organizational-readiness survey can be completed: (1) by the site team attending the training or (2) by the team's entire agency/program. The more people who complete the survey, the richer and more useful the information will be.

The information gleaned from the survey will inform the content and needed emphasis for the Phase 2 training. Trainee teams do not receive a pass/fail score. Rather, the information is only used to identify areas that might need work or addressing. The types of survey questions that will be asked revolve around organizational readiness (e.g., how ready are you to implement a gender responsive approach agency-wide?), where the organization is developmentally (e.g., brief gap analysis), and the domains of “GIPA” (Leadership and Philosophy (agency-level and facility-level), External Support (System, Stakeholders), Facility, Management and Operations, Staffing and Training, Facility Culture, Offender Management (Sanctions and Discipline), Assessment and Classification, Case and Transitional Planning, Research-based Program Areas, Services, Quality Assurance and Evaluation).

The following is the sample on-line survey:

Organizational Readiness Survey

Please check the box that best reflects your answer.

	YES	NO
Do you have an agency-level planning team, task force, workgroup, or other formally identified group assigned to incorporate a gender-informed approach into your agency?	<input type="checkbox"/>	<input type="checkbox"/>

Less Important

More Important

	0	1	2	3	4	5	6	7	8	9	10
How important does your <i>agency</i> view utilizing gender-informed approaches?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
How important do <i>you</i> view utilizing gender-informed approaches?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Less Value

More Value

	0	1	2	3	4	5	6	7	8	9	10
How much value does your <i>agency</i> place on utilizing gender-informed approaches?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
How much value do <i>you</i> place on utilizing gender-informed approaches?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Less Willing

More Willing

	0	1	2	3	4	5	6	7	8	9	10
How willing is your agency to devote resources (time, funding, personnel, etc.) to	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

support gender-informed approaches?	
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Please check the box that best reflects your answer.

	<div style="display: flex; justify-content: space-between; align-items: center;"> Less Ready More Ready </div>										
	0	1	2	3	4	5	6	7	8	9	10
How would you rate the <u>structural readiness</u> of your agency to make gender-informed changes (having the ability to keep a clear vision and to reorganize quickly and easily in response to external change and opportunity)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
How would you rate the <u>systemic readiness</u> of your agency to make gender-informed changes (having systems in place throughout that agency that provide information necessary to monitor the effects of change)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
How would you rate the <u>climatic readiness</u> of your agency to make gender-informed changes (having an internal culture that supports people and planned change efforts)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
How would you rate the <u>technological readiness</u> of your agency to make gender-informed changes (having the ability to keep current and innovative regarding material resources, research and current thinking)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
How would you rate the <u>people readiness</u> of your agency to make gender-informed changes (having leaders and other employees who can work together within an environment that is constantly changing)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please check the box that best reflects your answer.

	<div style="display: flex; justify-content: space-between; align-items: center;"> Less Ready More Ready </div>										
	0	1	2	3	4	5	6	7	8	9	10
How ready are you to implement a gender-informed approach agency-wide?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

How ready is your <i>agency</i> to implement a gender-informed approach agency-wide?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
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	<div style="display: flex; justify-content: space-between; width: 100%;"> Less Confident More Confident </div> <div style="text-align: center; margin-top: 5px;"> </div>
	<div style="display: flex; justify-content: space-around; text-align: center;"> 012345678910 </div>
How confident are you that your agency will adopt an agency-wide approach for justice-involved women that is gender-informed?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

Comments:

Phase 1: Coaching

Each three or four person team will be assigned an individual “coach” in Phase 1 who will work with the teams throughout all the three training phases. The coach may also be an instructor during Phase 2 and can provide up to four hours (depending on what the budget allows) not to exceed the period allowed for coaching in Phase 3 (generally a period of between three to six months). The coach will provide personalized attention and customized suggestions the team needs in order to make significant changes. They will provide support, accountability during the team’s organizational changes and help the team move along each of the three phases of the training. The coaching can take different forms including, but not limited to, phone calls, emails, check-ins, conference calls, webinars, visits, etc. Before the coach and team leaves the on-site Phase 2 training, the coach should set the time and date for the first phone meeting. It is important to keep the teams connected and engaged and to help them problem solve and strategize. The coach can also direct the team to resources including books, articles, blogs, listservs, mentors, forums, websites, etc. The coaching process goes on throughout the three phases.

Coaching by the trainers can be one-on-one sessions between each trainee team and their assigned instructor-coach. This may be conducted via Webex, Skype, a conference call or other technology. Coaches may also choose to “cross-site” some of the activities (several teams with similar issues brought together). This individualized approach will help target specific issues and areas that were identified in the on-line survey results. Topics to cover in the coaching may include: starting discussions around gap analysis (covering their system and operations, not just programs), reviewing data on their justice-involved women

population and relate it to the action steps, beginning the framework of their action plan. Teams may consider the use of gender-informed models of practice such as GIPA (Gender-Informed Practices Assessment conducted for programs by an outside team of experts) or GRPPA (Gender-Responsive Policy and Practices Assessment which is an internal agency self-guided assessment of programs for justice-involved women) or discuss gender-informed supervision, operational practices, training, program approaches and program elements.

For more information on the role of the coach, please refer to page 120.

Coaches will ask each team to bring a short description of what outcomes your agency is wishing to achieve in the management of justice involved women with them to the Phase 2 training or during the GRPPA process. They also are to bring the list of documents located on page 16 of this curriculum.

PHASE 2

“Phase 2” is a two and a half day, in-class training in a federally-approved facility. Six to eight teams of three to four people will attend the training along with the instructors who also serve as coaches (the team size may vary which affects the number of teams per coach). The training is scheduled from 8:00am to 5:00pm for two days and the third day is a half day from 8:00am to 12:00am.

The following are the modules and assigned instructor/coaches. Please note that within each module, there are several activities that will call upon the other instructor/coaches (who are not the lead for that module) to walk around the room and assist, and provide guidance and feedback to the teams in their activities. The following is the agenda for the training:

Agenda: Training at a Glance

When trainings are held at the National Training Academy in Aurora, Colorado, build time into the agenda for a tour of the NIC Information Center. The tour takes approximately 25-30 minutes and is typically done in the afternoon around break-time on Day 1 or 2. Arrange the tour ahead of time with NIC Information Center staff.

Day 1

Time	Module
8:00 – 8:15	Arrival, Registration, Coffee
8:15 - 9:20	Welcome

	Activity A: Introductions Overview
9:20 – 9:30	DVD – Success Stories
9:30 - 9:45	Break
9:45 -10:45	Legal Issues: Disciplining and Sanctions
10:45 – 11:00	Module 1: The Agency-wide Approach Model Overview of 9-Step Agency-wide Approach Model Agency-wide Approach Model - Step 1
11:00 – 11:30	Activity B: Organizational Readiness
11:30 – 12:00	Module 2: Incorporating Gender-Informed Program Assessment (GIPA) Domains into your Action Plan Overview of GIPA – 12 Domains GIPA Domain 1 Activity C (optional): Leadership
12:00 – 1:00	Lunch (Informal Q & A with lawyer re: legal issues)
1:00 – 1:40	GIPA Domain 2 Agency-wide Approach Model - Steps 2,3,4
1:40 – 2:00	Activity D: Vision and Mission
2:00 – 2:15	Break
2:15 – 2:30	GIPA Domain 3
2:30 – 2:45	GIPA Domain 4
2:45 – 3:00	GIPA Domain 5
3:00 – 3:15	Activity E: Interview Questions
3:15 – 3:45	Implementation Discussion
3:45 – 4:00	Activity F: Applying Implementation Research
4:00 – 4:30	Work on Action Plans; Incorporating Domains 1-5. Coaches available. Wrap-up

Day 2

Time	Module
8:00 – 8:15	Welcome day 2; Overview of the Day; Questions from previous day
8:15 – 8:45	Guest speaker to talk about successes
8:45 – 9:45	Trauma
9:45 – 10:00	Break
10:00 – 10:20	GIPA Domain 6 Activity G: Agency Culture
10:20 – 10:30	GIPA Domain 7
10:30 – 10:45	GIPA Domain 8
10:45 – 11:00	GIPA Domain 9
11:00 – 11:15	Activity H (optional): Assessment and Case Management
11:15 – 11:30	GIPA Domain 10
11:30 – 11:45	GIPA Domain 11
11:45 – 12:00	GIPA Domain 12
12:00 – 1:00	Lunch
1:00 - 1:20	Activity I: Data Review
1:20 – 1:50	Cross-site Discussion groups
1:50 - 2:25	Tour of NIC Library
2:25 – 2:40	Break
2:40 – 3:00	Partnerships DVD “Partnerships”
3:00 – 3:35	Module 3: Implementing your Agency-wide Gender-

	informed Action Plan Agency-wide Approach Model - Steps 5-9
3:35 - 4:30	Work on Action Plan – coaches available Wrap-up

Day 3

Time	Module
8:00 – 8:05	Welcome Day 3; Answer questions
8:05 – 8:30	Work on Action Plans and prep for presentation (teams).
8:30 – 10:00	Module 4: Presenting your Agency-wide Gender-informed Action Plan Activity J: Presentations of Action Plans – 3 groups
10:00 – 10:15	Break (make copies of finished action plans for speaker/coaches)
10:15 – 11:45	Presentations of Action Plans – 3 groups
11:45 – 12:00	Conclusion of Phase 2 training; Reminder in 1-2 weeks trainees will get NIC evaluation; Next Steps with coaches. Wrap up. Note that if training is held at the Academy in Aurora, Colorado, the bus may arrive closer to 11:30 to take participants back to the hotel. If so, the schedule may need to be adjusted accordingly.

Activities

Module 1

- A. Introduction
- B. Organizational Readiness

Module 2

- C. Leadership (Optional)
- D. Vision and Mission
- E. Interview Questions
- F. Applying the Implementation Research
- G. Agency Culture
- H. Assessment and Case Planning (Optional)
- I. Data Review

Module 3

No Activities

Module 4

- J. Team Presentation

LESSON PLANS

Day 1

Preparation for Day 1

- Prizes (e.g., candy bars, professional books, relevant gadgets) for history trivia questions
- PowerPoint® program and equipment
- DVD of DOC "Agency-wide Success Stories"
- Easel pad, paper and markers for each team

8:00 – 8:15 Arrival, Registration, Coffee

Note: Coffee is not available at the National Training Academy in Aurora, Colorado. However, there is a coffee shop one block away. This time allows the participants to get coffee before the class begins.

8:15 – 9:20 Welcome, Introductions & Overview



Title of Training



Welcome

- **Welcome.** Do self-introduction, background, role as training facilitator.
- **Agenda.** Describe agenda (above) for next two and a half days.



Training Overview

- **Goals and Action Plan.** *The goal/end product of this training is to produce a solid draft of an “action plan” to take back to your correctional agency. The action plan will incorporate evidence-based policies, practices and programming to assist correctional professionals to help women reach their full potential and lead productive, non-criminal lives in the community. The action plan is the best thinking of your group enhanced by the training information. The document is a “draft” since it is the beginning of the action plan process which will continue when participants return and work with their assigned coach.*
- *At the end of each module, you will be asked to write into your action plans things that you learned from that module. We want you to take the data and materials you brought with you and use it as a guide and foundation for your action steps. All the topics covered in the training are relevant for inclusion in the action plans.*
- *To make the training fun, we have seven trivia questions interspersed throughout the training. If you guess the correct answer, you will get a prize. The prizes are designed to inspire and energize you! So, stay tuned.*
- **Workbook.** *Does everyone have a workbook?*

Review participant materials. Have participants find their action plan form in the workbook and explain the different sections to complete. The sample action plan form is below:

JUSTICE-INVOLVED WOMEN: DEVELOPING AN AGENCY-WIDE PLAN:
TIMELINE FOR ACTION STEPS

Jurisdiction: _____

Desired Outcome of Plan: _____ Projected Completion Date: _____

Strategies	Start Date	Completion Date	Team Member Responsible

- **Logistics.** Location of bathrooms, turn off cell phones, transportation to and from the training site (e.g., bus schedule), airport logistics, location of restaurants for lunch, write point person/key instructor or NIC representative’s cell number on board if trainees have questions, there is an emergency, etc. If the training is at

the NIC Training Academy in Colorado, a tour of the NIC Information Center is usually arranged for conducted on day one or two. Determine if a tour is of interest to the group.



Activity A: Introductions (Large Group)

- **Trainee Introductions.** This is an opportunity to meet face-to-face with all the other teams, to learn a little more about other trainees and to feel comfortable in the group. Have each person introduce him/herself, state their agency, their job, number of years in corrections, number of years working with justice-involved women and if you so choose, incorporate an icebreaker question/activity (such sharing a hobby they have or ask if they had not gone into criminal justice work, what they would be doing right now). Note: this question could change from program-to-program. Write these introduction questions on an easel pad to assist the participants. Engage the teams. Get them excited about their tasks ahead.
- **Staff Introductions.** Have each instructor/coach introduce themselves.
- **Announce the Coaching Assignments.** Remind the teams which coach is assigned to which team. These assignments are generally made by NIC in Phase 1 so that the coaches have time to become familiar with the teams and the jurisdictions, to make a call to introduce themselves and/or to remind the teams of what to bring to the Phase 2, on-site training.

Coaching is a requirement of Phase 3. Each team gets four hours of coaching time to be used as needed over the four to six months following this on-site training.



Evidence-Based Practice

- *We have made tremendous progress in the field of corrections. Guiding principles have emerged in the form of evidence-based practices looking at women's risk, needs and responsivity.*



Historically

- *Historically, we have systematically ignored issues that are common in our work with justice-involved women and girls. Examples include trauma from sexual abuse, termination of parental rights, etc.*
- *The largest/dominant population (males) has traditionally been the subjects and the standard for research and statistics.*

- *Almost without exception, correctional systems, policy and practice across North America were designed around the risk and needs of men and applied to women.*
- *There is much discussion and debate around whether to maintain the status quo, that is application of gender-neutral policy and practice, predicated by the fact that women and girls comprise the smallest correctional population.*



And Yet...

- *And yet, women and girls are the fastest growing correctional population.*
- *The majority of incarcerated women are sentenced for nonviolent crimes and do not pose a significant security risk. We will be talking more about this later when we discuss classification and assessment.*
- *Women enter the justice system differently than men. Understanding “pathways” which we will cover, helps us better respond to women’s needs and therefore, results in better outcomes.*



And Yet...

- *For the most part, classification, assessment and intervention programs for women were designed for men and sometimes just modified and then not validated for women.*



End Result

- *The end result is that women are receiving high rates of institutional misconducts and disciplinary reports.*
- *They often do very poorly under community supervision.*
- *They are more likely to return to prison on a technical violation than new charges.*
- *And perhaps, the most understated and misunderstood fact of all... 2/3 of justice-involved women are mothers of dependent children. When a child has a mother in prison or jail, the likelihood of that child experiencing significant life challenges dramatically increases. The cycle continues... when you help women succeed and stay out of the system, you are literally helping generations.*



Good News

But, there is good news...



Gender-Informed Research Emerged

- Gender-informed research is now part of the accepted corrections nomenclature. There have been a series of federal, state and local initiatives that have verified the need for gender-informed services. Applied with fidelity, they can reduce the need for disciplinary and sanctioning responses, reduces violations and lowers recidivism, etc. It is an exciting time. There is now an integration of evidence-based practices and gender-informed research.
- A three year NIC project conducted focus groups across the country with the end result being a document “Gender-Responsive Strategies: Research, Practice and Guiding Principles for Justice-involved women” (Bloom, Owen and Covington). How many of you have seen or referred to this book? It is free and downloadable through the NIC Information Center
- <http://nicic.gov/grppa/> Gender Responsive Policy & Practice Assessment
- Gender Informed Practices Assessment GIPA (no link on the website, but we can develop a description or make available the Summary of the 12 Domains.



Six Gender-Responsive Principles

For an individual leader and an agency to move forward in making solid strategic changes, it is important to have a ‘compass’ of guiding principles based on empirical research.

- **Six Gender-Responsive Principles:** Barbara Bloom, Ph.D., Barbara Owen, Ph.D. and Stephanie Covington, Ph.D., developed these gender-responsive principles under a contract with the National Institute of Corrections in 2003. This was foundational to the field and significant work has been done to further refine and operationalize this great work.
 1. Acknowledge that gender makes a difference
 2. Create an environment based on safety, respect and dignity
 3. Develop policies, practices and programs that are relational and promote healthy connections to children, family, significant others and the community
 4. Address substance abuse, trauma, and mental health issues through comprehensive, integrated and culturally relevant services and appropriate supervision
 5. Provide women with opportunities to improve their socio-economic conditions
 6. Establish a system of community supervision and re-entry with comprehensive collaborative services

Bloom, B., Owen, B., and Covington, S. (2003) *Gender-informed Strategies: Research, Practice and Guiding Principles for Justice-involved women*. National Institute of Corrections, Washington, D.C.

This is the foundation for all justice-involved women's programs.



Best Practices

So we now can say we have “best practices” for women. In 2006, NIC pulled together a team to develop the Gender-Informed Practices Assessment (“GIPA”). They summarized the available research which resulted in a comprehensive assessment tool that incorporates evidenced-based practices (EBP) and gender-informed practices (GR). We will be talking extensively about the 12 domains of the GIPA tool throughout this training. It will provide us with a structure as we develop and refine our action plans. You have a handout that lists the 12 GIPA domains along with a brief description of each domain.



Best Practices

Some best practices intervention programs include Moving On, Seeking Safety, Beyond Trauma and Women and Recovery.

9:20 – 9:30 DVD Success Stories



Success Stories

Show DVD “Justice-involved Women: Developing an Agency-wide Approach Success Stories” (10 minutes). This DVD is designed to capture the trainees’ heads and hearts by giving real success stories.

We want to help you be inspired, energized and successful. In that spirit, let’s take a look at some of our colleagues around the country who have developed action plans, have not been afraid to be trailblazers, done things a little differently and made a difference for justice-involved women!

After the DVD has been shown, facilitate a discussion. *Did anything in particular resonate with you? Did anything sound familiar in their description of their facility or setting?*



9:30 – 9:45 BREAK



Break Slide

9:45 – 10:45 Legal Issues



Legal Issues

Here are some key legal issues of which you need to be aware.

Pregnancy and Childbirth

- *Use of Restraints*
- *Prenatal Care*
- *Elective non-therapeutic abortions*

Visitation

- *Location (women's prisons are generally more remote so she is isolated from her family; some facilities allow Skype or other means to "visit")*
- *Requirements vs. privilege, not having visitation*
- *Termination of parental rights (70% are caregivers to small children)*

(Note: the guest speaker on "legal issues" may add more PPTs in this section since things are continually changing – the PowerPoint® slide and this information are placeholders)

10:45 – 11:00

Module 1: The Agency-wide Approach Model



Module 1 Title Slide - The Agency-wide Approach Model



Trivia Question

- History Trivia. Ask one “justice-involved women history trivia question” at the beginning of each module and a few spots throughout the training. Have the questions be an interactive, fun group quiz with prizes (such as candy bars) for the correct answer. Feel free to add some trivia questions of your own.

Here are some questions from which to choose or you can create your own:

Sample Trivia Questions

(Note: Correct answers are in blue)

1. What percentage of justice-involved women have children?

- a. 20%
- b. 50%
- c. 70%
- d. 100%

2. When mothers go to prison, who most commonly takes care of her children?

- a. The father
- b. Foster care/the State
- c. Relatives of the mothers, such as her parents/grandparents
- d. Neighbors

3. When fathers go to prison, who most commonly takes care of his children?

- a. The mother
- b. Foster care/the State
- c. Wolves
- d. Neighbors

4. How many justice-involved women indicated they had been sexually abused prior to incarceration...

- a. 1 in 10
- b. 6 in 10
- c. 9 in 10
- d. 10 in 10

5. Women make up what percentage of all people under correctional supervision in the US?

- a. 5%
- b. 17%
- c. 45%
- d. 51%

6. The majority of women under correctional supervision are there for offenses related to substance abuse. Women's pathways to crime involve survival efforts that are a result of abuse, poverty and substance abuse.

True
False

7. Research suggests that more women are entering the correctional system because...

- a. Economic pressures such as meeting need of their children
- b. More laws with stiffer penalties
- c. Increased sentencing discretion by judges
- d. More arrests by police that previously would have been handled in a less punitive fashion
- e. All of the above

8. On average, how many miles is the prison from the home of the inmate and his/her family?

- a. about the same distance within 10-15 miles for both men and women
- b. 50 miles farther for women's prisons than men's prisons
- c. 160 miles farther for women's prisons than men's prisons
- d. 500 miles farther for women's prisons than men's prisons

9. Inmates (male or female) are less likely to have visitors or contact with family when prisons are more than 50 miles from their home.

True
False.

(Note: Research suggests that visitation helps reduce recidivism. 60% of incarcerated mothers are over 100 miles from their children. The farther the distance from her home, the less visitation and support she receives. 52% of women in prison receive no visitation from their children due to the distance)

10. The average age of an adult woman on probation/parole or in jail/prison is...

- a. 22 years
- b. 33 years
- c. 44 years
- d. 55 years

11. What is the percentage increase of women entering the justice system between 1990-2000 compared to men?

- Community supervision: 81% for women, 45% for men
- Prison: 108% for women, 77% for men
- Jail: 89% for women, 48% for men



Why Engage in Agency-wide Planning?

Why engage in Agency-wide Planning?

- *Provides shared sense of purpose (consensus building)*
- *Stimulates future-oriented thinking*
- *Provides a framework that guides choices: rational, information-based decision-making*
- *Orients the system toward results and outcomes*
- *Establishes on-going policy development and evaluation process*
- *Provides a vehicle for public information and education*
- *Promotes networking and a shared understanding*

We are not soft on justice-involved women. We want all justice-involved women to be held accountable. We are focusing on “what works” agency-wide for women so that they will be more successful inside a facility and when they reenter into the community.



Nine-Step Model

The Nine-Step Agency-wide Approach Model

Many of you have done planning before so understand the importance of being methodical, thinking through the issues and keeping the goal(s) in mind. In this curriculum, we will be laying out a nine step model for planning gender-informed services for women. It may be a different way to approach making changes in your agency. The first step in planning is to determine where you and your agency are right now. The agency-wide model has nine steps. We will go over these briefly here to give you a big picture of what needs to be done. Then we will be referring back to these nine steps throughout the training in our discussion on incorporating new approaches (Module 2) and implementing them (Module 3). The nine steps are also listed in your workbook.

The nine steps are:

- Step 1: Get ready*
- Step 2: Identify individual and organizational values*
- Step 3: Envision the future*
- Step 4: Formulate or refine mission*
- Step 5: Conduct environmental scan/gap analysis*
- Step 6: Develop goals and objectives/logic model*
- Step 7: Develop operational plans*
- Step 8: Implement plan*
- Step 9: Track, monitor, evaluate*



Step #1: Getting Ready

Step #1: Getting Ready

- Consider how the process is to be conducted
- Consider and identify:
 - Agency readiness
 - People to involve
 - Sequence of actions

You may be interested in the book “Managing Transitions” by William Bridges, Ph.D. It was on the reading list you received in Phase 1 of the training. He discusses how change is physical but transition is psychological.



Getting Ready (Con't.)

Getting Ready: Agency Readiness...

- *How ready is my organization to undergo change?*
- *How can I contribute to that readiness?*
- Review your on-line readiness survey

11:00 – 11:30 Activity B



Activity B: Organizational Readiness (Team)



Break into your teams and discuss the on-line survey your team completed in Phase 1 of the training regarding organizational readiness. This is “Activity B” in your workbook.

Look at your answers and discuss these questions: (1) What were the three highest responses for each question? (2) What were the three lowest responses? (3) Were there any surprises? (4) Why do you think these scores were given – what is the back

story, reason? (5) What are the issues around organizational readiness that your team needs to consider as you move forward with your action plan? (6) How will they be addressed? (7) When will they be addressed/how do you prioritize the issues?



Getting Ready Con't. (People)

Getting Ready: The People

- Which different staff people must we include in each stage of the process?
- Are there policy-level team members?
- Who will be on the planning team?
- Who will facilitate the process? Internal or external consultant?

Discuss how to manage the political environment (e.g., bring resisters into the fold, put them on committees, personally meet with them).



Getting Ready Con't. (The Process)

- How long a time period will we allocate to the process?
- How many work sessions?
- Where will sessions take place?
- Deliverables at each stage?
- Who will research and develop the required data?

We will revisit organizational readiness in Module 3 when we discuss “implementation.”

11:30 – 12:00

Module 2: Incorporating GIPA Domains into your Agency-wide, Gender-informed Action Plan



Module 2 Title Slide



Trivia Question

History Trivia Question: *When and where was the first prison for women built in the United States?* (Or select trivia question from master list on [page 32.](#))

Answer:

- *Mount Pleasant Prison for Women in New York, 1835 ... the only prison for women in the US until the 1870's.*
- *Women were reportedly easier to manage when removed to a distance from men: "The spirit of reckless stubbornness and bravado dies within them when they know that they are out of sight, hearing and notice of their fellows of the other sex."*



Ask Yourself

In this module, we are going to be exploring new ways to do our work and new ideas to incorporate. I want to start by having you ask yourself why you want change for the justice-involved women in your organization, agency or program. Why do you want to be the leader of that change? Discuss.



GIPA

One way to facilitate change in your agency is to use a structure as a guide. For our structure, we are going to be focusing on the "Gender Informed Practices Assessment" (referred to as "GIPA") as a framework of best practices for women. GIPA has 12 domains that can be plugged into the nine step agency-wide approach model. GIPA is the content and the Nine Steps are the roadmap outlining the steps to get it implemented.

So let's start by taking a look at GIPA Domain #1: Leadership and Philosophy.



Domain #1: Leadership and Philosophy Title Slide



Definition of Leadership

Domain 1 addresses the extent to which agency executive leadership and management demonstrate commitment to both evidence-based and gender-informed practice for justice involved women in critical ways. This can be prisons, jails or community corrections.

ASK: What are some ways that your agency's leadership currently demonstrates commitment to gender responsiveness?

Discuss this briefly in large group and write responses on easel pad. Sample responses include: educate public; training for staff on trauma and gender-informed approaches; a mission statement that acknowledges differences of women and men; gender-specific programming; gender-specific caseloads; evidence-based practice that is gender-informed.



Key Indicators of Leadership

Some key indicators of leadership and philosophy can include:

- *A high-level position, such as a director of women's services for the Department of Corrections, has responsibility for oversight of women's services and coordinates all aspects of facility-level efforts to implement gender-informed principles and practices. An organizational structure exists (work group or task force) to guide and direct gender-informed practices.*
- *Agency-level mission statements acknowledge the importance of gender-informed practice, and a strategic plan exists through which leadership develops, pursues and communicates gender-informed principles and practices throughout the agency*
- *At the facility or community corrections level, a gender-informed mission statement is clearly articulated and prominently displayed throughout the organization. The goals and objectives identify both intermediate and ultimate outcomes that are relevant for women.*
- *Written policies and procedures, including all requests for proposals, contracts and memoranda of understanding (MOU's), reflect clear expectations regarding gender-informed principles and practices.*
- *Policies concerning the implementation of the Prison Rape Elimination Act (PREA) draft standards consider gender-informed practice.*



Other Leadership Skills

Leaders must also be willing to:

- *Represent the women (as a small percentage of the overall corrections population)*
- *Invest in incremental change*
- *Remain visible and legitimate within the larger agency*
- *Become well informed on gender responsive principles, research and practices*
- *Understand the operational impact of managing women*
- *Keep current on legal issues*

ASK: Can you think of any other characteristics or things that a leader of gender-informed services must do?

Discuss. Examples might include: educate public; training for staff on trauma and gender-informed approaches; collaboration; evidence-based practice that is gender-informed; gravity in implementing policies.



The Importance of Leadership

It goes without saying that any successful change initiative must have strong leadership. You do not need to be at the top of the organization to be a leader. Leaders can be found throughout the agency: they can be executive staff, correctional officers, supervisors, or others. You – everyone in this room – is a leader and can be a champion for these efforts.



Leadership Teams

One strategy recommended by experts to assure successful implementation is the establishment of an implementation team, a small group of staff who have the experience, technical knowledge and expertise, and authority to manage the daily aspects of implementation (Pew-MacArthur Results First Initiative 2016). By delegating the day-to-day responsibilities to an implementation team, tasks can be more easily managed and spread among group members, and key agency executives can conserve time and resources and become involved when/as needed. A leadership team that is representative of different parts of the agency and/or different perspectives may also be seen as being representative of the agency as a whole, rather than just one person.



Activity C: Leadership - Optional (Team or Large Group)

- (15 minutes) Break participants into their teams and discuss leadership in their organizations. Discussion questions are located in their workbooks.
- *Where in your agency will leadership come from for this effort? (Examples may include: the team attending this training, the warden, head of women's services, a workgroup in the agency tasked with recommending changes, a soon to be developed task force).*
- After 10 minutes, reconvene teams back into the large group. Have the teams briefly report out highlights or concerns from their discussions or they can go directly into working on their action plans, incorporating information from the Domain #1 discussion.



Lunch Slide



12:00 – 1:00 LUNCH

During the lunch break, the attorney who presented during the morning session on legal issues will be available for an informal “Question and Answer” time. Participants who are interested are encouraged to grab some lunch and bring it back to the classroom for the informal session.

1:00 - 1:40 GIPA Domain #2

Domain #2: External Support (System, Stakeholders)



Domain #2 Title Slide



Domain Description

An effective system for women's services is not built on advocacy or outside groups but it is not well built without them. Systemic changes must be integrated into existing structures or additional structures grounded in approved new strategic directions.



External Support

This GIPA domain examines the external support from system stakeholders, funders, and community partners for the agency's mission regarding gender-informed and evidence-based practices for women. External stakeholders may include the governor's office, legislature, human service agencies (e.g., substance abuse and mental health services, housing), local businesses, a Task Force or Commission on Women or others that are aware of the agency's goals with regard to women and support adequate funding for women's services.



Indicators of External Support

External support is reflected in a number of ways, for example:

- *It may be reflected in the agency's budget and dedicated funds for women/gender responsiveness. That is, an appropriate level of funding is in place based on the identified needs of the population. This may be exemplified by certain medical procedures associated with reproductive health, mammograms and pregnancies which are, of course, a factor for women and not men. Or, it may include additional mental health services for women who we know have higher rates of past trauma and abuse.*
- *Stakeholders outside of the agency are aware of and supportive of gender responsive policies and practices. This may include community groups and others who provide services and programming for women. Or community groups that assist with bringing children to the facility to visit their mothers and grandmothers.*
- *Agency and facility leaders value community partnerships. Are community groups welcome inside the facility or agency? Can you point to examples of community partnerships that benefit the women? Facility or correctional organization leaders who value and encourage community partnerships as demonstrated by formalized relationships with state agencies and local organizations, use of a community advisory group, and regular efforts to engage and educate local groups regarding the facility's mission and the needs of women can be invaluable to enhancing gender responsiveness within the agency.*



Practical Examples of External Support

Some additional examples of external support may include:

- *Active facility or agency community advisory group who meet regularly with the agency/facility to support their programs and activities, and even transition and reentry efforts for women. They may provide needed goods (clothing, hygiene supplies, transportation, etc.) and services for women and even assist with fundraising for certain efforts.*
- *Community partnerships for services, programs, volunteers, etc.*
- *Communications efforts to engage and educate surrounding community. What does the surrounding community understand about justice involved women and their needs and the needs of their children?*
- *Larger state/local “commission of women’s issues” that is aware of and actively supporting issues facing justice involved women. A larger Task Force or Commission on Women can be an invaluable partner in raising awareness of justice involved women and the complex and multiple issues they face.*
- *Funding from instate foundation, local businesses or others for women’s programming and services. Of course partnerships with local funding organizations and businesses can assist with fundraising for special programs, employment opportunities and the like.*

ASK: How would this domain look differently for jails? Community corrections/probation and parole?

Let’s now go back and revisit the 9 Step Agency-wide Approach Model we talked about earlier. Steps 2, 3 and 4 fit nicely with the past two domains on leadership and partnerships we just discussed.

Note to instructor: It may get confusing with all the numbers of modules, domains, steps, principles and activities. Be aware that it may be challenging for some participants to track. The numbers are not important. It is the concepts.



Agency-wide Model Step #2: Identify Individual and Organizational Values

Step #2: Identify Individual and Organizational Values

Getting ready is not only looking at the agency or organization, but also looking at the individuals. It is important to ask yourself:

- *What are my strong, central values and beliefs about justice-involved women?*

- *What are my agency's strong, central values and beliefs about justice-involved women?*



Agency-wide Model Step #3: Envision the Future

Step #3: Vision Statement - Envision the Future

Discuss Vision and Mission. In Phase 1 of the training, trainees were asked to look at their vision and mission statements and identify whether they thought they were appropriate and relevant for justice-involved women and could guide an agency-wide effort for change. Check in with trainees on this to be sure they understand where they are on this as an agency, if more work needs to be done, if they are ready to move forward, etc. Establishing a clear and gender-informed vision and mission statement is a foundational piece that needs to be solid before other parts of the plan can fall into place. Now is the time to revise/rework the existing vision and mission to ensure gender-informed practices can be implemented.

Start with the vision statement.

“Vision” is a shared picture of the future the organization/program seeks to create.

Vision is a concise declaration of the direction that an agency is planning to take into the preferred future

Begin by scanning your environment, externally and internally

Read examples of some of the participant teams' gender-informed vision statements. Ask the teams if they feel comfortable with their vision statement or is that something they want to examine during this training and rewrite/augment in their action plan?

Sample Vision Statement

To reduce the number of women who enter the correctional system.

You will find other examples of vision statements in your workbook.



Step #4: Formulate the Mission

Step #4: Mission Statement

“Mission” describes the reason the organization/program exists.

Sample Mission Statements:

To preserve personal dignity, honor diversity and support families and communities while promoting public safety.

(or)

To provide females, in a safe and secure setting, with the skills to resist negative influences and opportunities to create a healthy future

(or)

To provide opportunities for the justice-involved woman to develop her potential for a responsible, productive and law-abiding lifestyle.



Purpose of Mission

Mission statement answers

- *What programs or services are to be provided?*
- *How will the organization go about providing the programs or services?*
- *Who are the clients that receive the programs or services?*

Mission statement should

- *Be clear and understandable*
- *Be brief enough to keep in mind*
- *Clearly specify organization's business*
- *Reflect distinctive competence or role of the agency*
- *Allow flexibility, yet not be so broad that it lacks focus*
- *Serve as a template*
- *Reflect the common values and beliefs*
- *Be realistic*
- *Be a source of energy!!*

Read examples of some of the participant teams' gender-informed mission statements. Ask the teams if they feel comfortable with their mission statement or is that something they want to examine during this training and rewrite/augment in their action plan?



Policy

Vision and mission statements can carry out into other areas in your agency. For example, they can and should be reflected in policy and procedures. This includes working with staff internal to the organization as well as outside contractors.

Sample Policy Statement

Here is an example of a gender-informed policy statement: "It is the policy of this agency to assure a system of care that is vigilant and responsive to gender differences, acknowledges and incorporates gender-specific programming at all levels of the system, expands knowledge, and then adapts services to meet gender-unique needs."



Sample Contract and MOU Language

Sample Contract or MOU Language (for non-custody/outside contractors)

Contractors often have interactions with the justice-involved women in our program. As a contractor, you play an important role as an employee would. Therefore, it is important to provide gender-specific services based on best practices in the field. Gender-specific services comprehensively address the needs of a targeted gender group and include the fostering of positive gender development. MOU = Memorandum of Understanding.

Read aloud the sample contract language on the slide.

1:40 – 2:00 Activity D



Activity D: Review your Vision and Mission (Team)



(15 minutes) Break trainees into their teams to review their vision and mission statements based on the discussion earlier. Additionally, they are to answer the following questions:

1. If your agency/facility were working ideally to meet the needs of justice-involved women, what results or outcomes would you expect to achieve? (Discuss and review the ideas generated to these questions.)
2. Next, review the current vision (if there is one) and the agency/facility mission statement that you brought with you.
3. Does the current vision/mission reflect the ideas you generated in question 1? Why/why not?
4. Does the current mission statement include strategies, ideas, and concrete action steps to accomplish your vision of gender responsiveness
5. If time allows, create a few key sentences that reflect the ideas discussed and the ones where there is most consensus among the team members.
6. Lastly, note any “to do’s” or unfinished work to be included in your Action Plan.

After about 10 minutes, reconvene everyone back into the large group and have the teams share what they learned, read their statements if they do choose, etc.



Break Slide



2:00 – 2:15 BREAK

2:15 – 2:45 Domains #3 and #4

Domain #3: Facility



Domain #3 Title Slide



Domain Description

This looks at the physical structure and layout (e.g., least restrictive/corresponds to security needs of women, space for small groups and supervision, supports positive relationships). It examines multiple aspects of a facility's location, physical design, and conditions with regard to their gender-informed approach for women in jails and prisons. Although some of the general concepts are transferable to other settings, other domains will address those of you in community corrections.

Primary facility considerations include:



Facility and Program Considerations

Facility Location

- *When possible, facility should be close to the community to encourage visits from family and friends. Alternatives to maintain contact with community can be used (such as SKYPE to communicate with children, community providers).*
- *When possible, facility should be close to community services (medical, mental health, social services, cultural-based services and treatment).*

- *Building should be structured to allow outdoor access especially if surroundings are quiet and peaceful.*
- *Exercise equipment should be geared to females (treadmills, yoga mats, walking track) to increase probability of use.*

Facility Physical Plant Challenges

- *The NIC site <http://nicic.gov/library/022247> is an excellent resource when looking at physical challenges in your facility.*
- *Most facilities were designed to address the higher security requirements for males*
- *Facility design matches demonstrated security needs*
- *Because of small number of women and limited housing space women are:*
 1. *Housed based upon custody classifications designed to assess the more violent male*
 2. *Administrative segregation, when used, can be a mixture of*
 - *Newly committed women who may be detoxing, awaiting mental health assessments for medication needs*
 - *Women with mental health needs*
 - *Women serving disciplinary time*
 - *Women who have to be separated from the general population or another woman in general population or administrative segregation*
 - *That one juvenile who is committed as an adult but must be separated from the sight and sound of adults*

Particular areas that can create traumatizing events are:

- *Admissions desk where there is little privacy and both males and females are being interviewed.*
- *Medical and mental health screening rooms are used which limits privacy, physicians may be male, etc.*
- *Admission and discharge rooms:*
 1. *Should be as far away as possible from male admissions*
 2. *Some allow for privacy even between women being searches*
 3. *Trauma-informed training for staff is especially important*

4. *While important to maintain surveillance to protect women not in such a way to expose them*
 5. *Facility policy may prohibit wearing hair weave and women are required to remove and discard it at intake which results in severe damage to their hair (often males are allowed to keep dreadlocks)*
- *Escort – Pathways to services should not pass near male housing units or women should not be escorted where males are congregated or being escorted (one option is to cease male movement if that coincides). It is important to have sufficient staff and vehicles to keep men and women separated by sight and sound as much as possible.*

Housing Units

- *Housing, showers and restrooms, and booking and admission areas, should be adequate for the number of women in the facility and designed to provide essential privacy and safety for women.*
- *The assignment of female staff persons to each shift and housing unit.*
- *Written policies that require female staff to conduct pat and strip searches except in emergency situations.*
- *If adequate female staffing is not possible, policies should be in place to provide privacy and safety such as “knock and announce” policies with male staff, video surveillance, etc. Having female staff is not enough. They need to be trained on gender-informed approaches.*
- *Attention is paid to the adequacy and appropriateness of basic living conditions (cleanliness, heating, cooling, comfortable furnishings, and visual environment). Further, the facility design and operation match the demonstrated security requirements of the women (not a higher security environment than warranted by women’s behaviors).*

Space for Programming, Reflection and Fostering Healthy Relationships

Because relationships are so important to women’s well-being in jails, prisons and success after release, the facility provides:

- *Smaller pods or break up space into small groupings that are community-focused to reduce tension and develop communications*

- *2-3 small group rooms or break up space to allow for varied leisure activities.*
- *Family-friendly visiting space w/contact visits.*
- *Visiting area has child-friendly visiting area separate from adult-only area.*
- *Video visitation should not replace contact visits but can be used for additional visiting hours to encourage contact with children when facility is not close to the community.*
- *Video visitation community partnerships so they are located close to communities where women come from (e.g., public library, social service offices (Skype)).*
- *Space in public library or social services that has skype could be used for family reunification conferences/release planning if case managers or treatment team area also has Skype.*
- *If options noted above are not available, simple use of conference calls can be used.*
- *Video visitation area should have some degree of privacy from the rest of the visiting room or housing unit (adult visiting is not visible to children).*
- *Video visitation room on community side is child friendly so visit is more relaxed.*

“Disconnections and violation, rather than growth-fostering relationships, characterize the childhood experience of most women in the correctional system.”

From A Women's Journey Home: Challenges for Female Offenders. Covington, S. Center for Gender and Justice. April 2002

Gender-informed Environment Reflects Women's Risks and Needs

- *Use of single room units as much as possible*
- *Don't use bunks wherever possible*
- *Use of soft color and calming wall designs/wall posters*

- *Natural light, softer lighting*
- *Easy to move modular furniture*
- *Furniture made of soft materials*
- *Reduced noise*
- *On-unit laundry care (privacy, improves garment's shelf-life)*
- *Privacy screens in showers*
- *Night lighting should be less direct and soft while still balanced with need for bed checks/surveillance*

Unit Treatment Space and Staffing

Is there sufficient program space for confidential assessment and treatment and for a variety of group programs, including space for physical exercise and for spiritual expression?

- *Case Managers should have offices on the unit*
- *The offices should provide some privacy*
- *Mental Health staff should be located in close proximity*
- *Private space for mental health and medical triage*
- *Small group space for treatment groups*

Domain #4: Management and Operations



Domain #4 Title Slide



Domain Description

This domain looks at how the program or agency functions.



Management and Operations

A frequent challenge to administrators responsible for female offenders is the integration of gender-informed practices in every aspect of operations within the facility's and community corrections program security requirements. There are several important considerations:

- *Leadership: As we talked about earlier, effective institutional management begins with strong leadership that understands the principles of gender-informed practice*

and has a clear strategy for their implementation. Leadership effectively communicates those principles to managers and staff and holds them accountable for effective practices.

- *Management Oversight: There is a management structure for the oversight and implementation of gender-informed operational and security practices in all areas: security, programming, medical, mental health, other services, contractors, volunteers, and other services.*
- *Policies: There are established (written) policies and procedures for implementation of gender-informed practice in critical areas such as the women's property list, hygiene products, transportation of pregnant women, cross gender supervision, privacy, pat and strip searches, and sexual harassment/PREA. The practices are part of the day-to-day operation in post orders and both formal and informal communications.*
- *Accessibility: Facility and organizational managers are accessible to staff and justice-involved women through informal and formal avenues (e.g., grievance procedures, surveys, and data collection/analysis).*
- *Training: Gender informed practices should have mandated training for all ranks, ranging from leadership to staff who have contact with the population.*



Practical Applications of Domain 4

How does Domain 4 play out in real life?

One way is to conduct a facility audit for your own information and look at the following:

- *Does your policy handbook address gender-informed issues?*
- *Does commissary offer items that meet the needs of women?*
- *Does weekly laundry distribution provide enough under-clothing to meet the women's needs?*
- *Do the offenders know the name of the facility manager? When is the last time they saw him/her?*
- *At what point does management staff receive training on gender-informed services?*
- *Do facility or program volunteers and contract staff receive training on gender-informed services and approaches?*
- *Do the staff exhibit gender-informed behaviors when interacting with the women?*

I would like to hear from some of you in community corrections. What are some things unique to you to consider regarding your space, environment and operations?

Domain #5: Staffing and Training



Domain #5 Title Slide



Domain Description

This domain looks at who the staff are, their actions, behavior, accountability, plus how they are trained, what they learn and when.



Focus of Domain

Domain #5, Staffing and Training, looks at WHO and HOW staff are selected. Key considerations for this domain include the hiring process, the minimal requirements for education and experience, as well as, staffing patterns (ratios - male to female; number of staff, etc.).

Staff selection is the starting point for the establishment of a qualified, experienced workforce to deliver effective services. Who we select is particularly important for programs that require staff with more complex qualifications and specific skills such as nursing, teaching, etc.

Research suggests that when we hire less qualified and less experienced staff there appears to be lower employee satisfaction, higher turnover and slower progress overall with respect to the implementation of new policies and practices. Each of these factors can contribute to long-term challenges.

There is evidence to suggest that personality traits and individual characteristics are a more important and significant consideration than- degrees and past experience. Characteristics that we are encouraged to look for include: knowledge about women and working with women in this field, sense of social justice, ethics, interest and willingness to learn, empathy and compassion for the women, etc.

A well-run facility or community corrections agency is grounded in a workforce that is committed to the organization's mission, to include safety and security, and hired and trained to carry out the daily requirements of gender-informed practice. As we look at providing motivation for improving women's behaviors, we don't want to lose sight of

safety and security. That is a priority. In difficult budget times, agency and facility leadership are challenged to value and maintain a commitment to gender-informed training and staff development. The domain considers items including the following types of items:

- *The hiring process is designed to identify staff with adequate awareness, commitment, education, and experience to work effectively with women and contribute to the mission of the facility or agency.*
- *The staffing pattern supports the operational requirements of working with women and pays particular attention to the number of female staff overall, including same sex supervision at important times. Critical functions of the institution are adequately staffed (medical, mental health, security, programming, case management).*
- *Initial and booster training is provided to all staff and volunteers in content areas critical to successful work with women. There are planned opportunities for coaching and meeting with staff to problem solve difficult issues and reinforce effective skills and practices.*



Staffing and Training

This domain is also concerned with WHAT staff actions, behaviors and responses are valued and supported during staff training, coaching and supervision and performance reviews.



Staffing and Training

Finally, an emphasis is placed not only on what is trained but how training initiatives and new implementations are supported. A study carried out by Joyce and Showers (Przybylski, 2013) shows the importance of coaching to facilitate the transfer of knowledge from the classroom to the real world:

- *10% of newly trained staff will transfer what they learn when the training includes theory, discussions and demonstrations;*
- *25% of newly trained staff will transfer what they learn when the training includes theory, demonstrations and practical workshops;*
- *90% of newly trained staff will transfer what they learn when the training includes theory, demonstrations, practical workshops, and coaching.*

(Przybylski, R. (2013). Implementation science and the importance of fidelity: Replicating evidence-based practices. Presentation as part of a webinar organized by the National Criminal Justice Association. May, 2013.)

When we combine good training with coaching we build staff competence. When we monitor and reinforce staff adherence to the program and evaluate program outcomes we can help to ensure fidelity to the intervention we are implementing.



Practical Applications – Who and How

Though not always possible, we have found that when staff have the option to self-select they report greater satisfaction with their work and are more responsive to the needs and issues presented by women. If they have not had experience in working with women look for a general interest and an openness to learn about women.

The interview can help to determine if staff attitudes and characteristics align with gender-informed principles and practices. For example, ask questions to determine their view of the differences between men and women; their knowledge regarding the needs of women; their philosophy regarding change and rehabilitation.

Present candidates with realistic scenarios to explore how they would respond to difficult situations including non-compliance with a direct order, dealing with disclosure; crossing a professional boundary; etc.



Practical Applications – Who and How

Staffing is often based on the premise that women are less violent and pose less of a risk than men and therefore require fewer operational and program staff. Research suggests that though women are less violent – they are also more likely to demonstrate the need for positive interactions with staff. This in turn, can lead to fewer disciplinary incidents, mental health crises, etc.

All major functions in the facility should be adequately staffed. These include security operations, medical, mental health, programming and case/transitional planning.

Staffing patterns should also reflect the diversity of the women who are incarcerated.

Finally, a greater number of female staff should be available. This is essential to support supervision during times where there is a high need for privacy and to support treatment efforts when sensitive issues are discussed and explored.



Practical Applications - What

Training content should be adapted to the unique role and function of targeted staff. However, all staff should have exposure to evidence-based principles and practices that incorporates the research on women.

Staff should be provided with a working definition of what it means to be gender-informed and the 4 core elements that characterize a gender-informed approach (e.g., trauma informed; relational; strengths-based and culturally competent).

Over the last decade technical assistance has been provided by NIC, the Resource Center on Justice-Involved Women and SAMSHA in each of these topics and the area of trauma informed principles and practices to help them understand the impacts of trauma on the women they serve and the secondary impacts on them.

ASK: Reflect on the core competencies (skills and strategies) that are essential to work effectively with women. Elicit their responses in the large group and anchor to information in the next slide.



Practical Applications - What

All staff regardless of role and function require a core set of competencies and skills that begin with basic communication skills and include more advanced skills such as teaching skills, building motivation, and facilitating groups.

3:00 – 3:15 Activity E: Interview Questions



Activity E: Interview Questions (team)



Break participants into their teams. Give them a few minutes to reflect on interview questions and scenarios they currently use to assess candidate attitudes and commitment. Reconvene back into the large group. Elicit responses from the teams and record on an easel pad.

3:15 – 3:45 Implementation Research

The Implementation discussion is the first part of this activity (10-15 minutes) and the team workbook portion of the activity on applying the implementation research is the last 15-20 minutes.



Process of Implementation

Whenever we consider staff training or the introduction of a new program we are asking people to implement something new. In 2005 one of the first efforts to review research on implementation was conducted by Fixsen and his colleagues (Dean L. Fixsen, Sandra F. Naoom, Karen A. Blasé, Robert M. Friedman, Frances Wallace -2005. Implementation Research: A Synthesis of the Literature. Florida: University of Southern Florida).

They looked across a range of social service organizations and discovered that in almost every sector – whether health care, education, or corrections there is a gap between research (what we know) and practice (what we do).

According to Fixsen and colleagues implementation is very complex. It typically happens in multiple stages and it almost always implies change.

Provide examples to demonstrate the complexity of implementation (e.g., introducing a risk/needs assessment, new program, trauma-informed principles).



Implementation Drivers

The good news is that we actually have a body of research to support positive outcomes. We have a sense of programs and staff competencies that can decrease future criminal behavior and impact intermediate outcomes – like symptom reduction, maintaining employment, increased confidence as a parent...

Provide a brief description of the three implementation drivers – emphasized in *Implementation Drivers: Assessing Best Practices*- Dean L. Fixsen, Karen A. Blase, Sandra F. Naoom and Michelle A. Duda, NIRN v. 5/2015.

1. *Competency supports include any mechanisms to develop, improve and sustain a new program, intervention, etc. Critical competency supports include staff selection, training, coaching, performance evaluation which assesses both fidelity and impact.*

2. *Organization supports are mechanisms that are put in place to ensure that the culture and environment is prepared and ready for implementation. This is typically achieved by facilitative administrators (superintendents, clinical supervisors, etc.) who change organization practices and support systems interventions.*
3. *Finally, implementation requires leadership supports that provide the right leadership strategies for different types of challenges. Leadership supports can help resolve adaptive issues (convening groups to identify challenges and barriers to implementation, arriving at consensus regarding how to approach a solution, etc.) and technical problems (setting goals, managing time and effort, solving problems of known dimensions) that arise in the course of initiating changes.*

Make the point that to ensure successful implementation, all three supports must work together. Unfortunately, most stop short and place an emphasis on one aspect of competency development: staff training.



Three Levels of Implementation

Another observation by Fixsen and colleagues is that there are three levels of implementation.

Briefly review all three levels (paper, process, performance) and tell them most implementations do not move beyond the first level (e.g., writing it down on paper such as an action plan) because the drivers are not fully mobilized. For additional information see Fixsen, et al, 2005.



Stages of the Implementation Process

We would like to leave you with an additional observation by Fixsen and colleagues. Implementation is a process and not a destination. There are six identifiable stages to implementation.

Briefly review the first four stages of implementation and then come back to the last two stages.

1. *Exploration and Adoption:*
Acquire information on evidence-based programs and identify the most appropriate program or intervention.

2. *Preparation and Installation:*
Assure the availability of resources necessary to initiate the project, such as staffing, space, equipment, organizational supports, and new operating policies and actively prepare the site.
3. *Initial Implementation:*
Initial application for the program in the organization. This is the most difficult step.
4. *Full Implementation:*
The program is integrated in the organization's policies and procedures.
5. *Innovation:*
Organization learns the new ways of work, learns from mistakes, and continues the effort to achieve buy in by those who will need to implement the project components. This stage is characterized by frequent problem solving at the practice and program levels.
6. *Sustainability/Continuing:*
Staff has become skillful in their service delivery, new processes and procedures have become routine, and the new program or practice is fully integrated into the organization.

Provide an example of a successful implementation. Demonstrate how long it can take to complete the first four stages of implementation.

We often feel that once we have implemented a change we are all set. For example, we bring in risk assessment and we check this off our list. However, a change like this- requires time to ensure competency development (staff using the tool with fidelity; assessments being completed on time and being used to drive case management decisions; higher risk cases receiving more intense intervention, etc. Fixsen, et al (2005) discovered that the first four stages can take a minimum of 2-4 years on average to complete. As agencies move toward full implementation the last two stages- innovations and methods to ensure continuity take a more prominent focus.



Applying the Implementation Research

The early research on implementation inspired by Fixsen and colleagues...was instrumental in advancing our knowledge about implementation... We now know that ... [review slide content].

ASK:

- *What are some of the challenging factors that can get in the way of effective implementation? Consider your organization first what are some potential challenges or issues?*
- *What about factors related to staffing?*
- *What about factors related to identifying the evidence-based program or practice?*

In the large group, elicit challenges and barriers across the three contexts. Sample responses might include:

Challenges related to the organization

- Organizational capacity
- Level of site readiness
- Organizational stability, shared decision making and common vision
- Presence of champion
- Quality of management support
- Coordination position
- Resources dedicated to the implementation of a specific evidence-based practice
- Staff selection
- Coaching
- Linkages with other external networks and partners
- Engagement and commitment from management
- Leadership
- Evaluation and use of performance measures and information management system

Challenges related to staff

- Attitudes toward and perceptions of the program
- Level of confidence
- Skills and qualifications

Challenges related to the specific evidence-based program or practice

- Integration of the program and its compatibility
- Training and technical assistance

Make the point that when challenges are addressed in an integrated way we can help to ensure successful implementation.

Since 2005 – federal agencies have worked with sites to develop planning tools for implementation. There are now checklists, activities and protocols available as well as a series of case studies documenting the process. These can be downloaded simply by entering Fixsen's name. Guides have now been developed in different countries. The one currently used in Canada is: Guide on the Implementation of Evidence-Based Programs: What Do We Know So Far? By Julie Savignac and Laura Dunbar

3:45 – 4:00 Activity F: Applying Implementation Research



Activity F



Activity F: Applying the Implementation Research (Team)

Refer participants to Activity F in the workbook and have them get into their teams.

In your workbook, look at the “Checklist for the Exploration and Adaptation Stage.” Consider one evidence-based program or training you hope to implement in your Action Plan. Review the content of the checklist.

Give the participants a few minutes to review the content of the checklist. Respond to any questions and then make the point that there are planning tools available for each of the stages that can be extremely helpful with implementation.

When you have gone through the checklist, stay in your team move right into the next activity which is working on your Action Plan.

4:00 – 4:30 Work on Action Plan (Team)



Work on Action Plan (Team)



“How does the information in this module (Domains #1-5) apply to you? To your Action Plan? Why do you want to change or include this component in your plan? Does

gender-informed evidence suggest this change is the most effective modality with justice-involved women? What are your strengths, weaknesses, opportunities?" Allow trainees time to write notes into their Action Plans.



End of Day 1

Note: If the training is held at the NIC Training Academy in Aurora, Colorado, it may be necessary to vacate the training room by 4:30pm to catch the bus back to the hotel. Therefore, this activity may need to wrap up by 4:25pm.

-----End of Day 1-----

DAY 2

Preparation for Day 2

- Prizes for history trivia questions
- PowerPoint® program and equipment
- DVD "Partnerships"
- Easel pad, paper and markers for each team



Day 2 Title/Welcome Slide

8:00 – 8:15 Welcome and overview of Day 2. Answer questions from previous day.



Trivia Question

Where in the world was the first prison for women and what year was it built? (Use this question or substitute with a question of your own – additional trivia questions are listed earlier)

Answer:

- *Founded in 1597 in a part of St. Ursula's Convent in Amsterdam, Holland*

- *The building burned down in 1643 and was replaced with a new one in 1645: called The Spinhuis (The Spinning House) because the women prisoners sat in a large room all day, spinning and sewing*
- *Over the entrance was this sign:
“Fear Not! I do not exact vengeance for evil, but compel you to be good.
My hand is stern, but my heart is kind.”*

8:15 – 8:45 Guest Speaker

Invite a guest speaker who can talk about what his/her program or facility has done to become gender-responsive on an agency-wide scale.

8:45 – 9:45 Trauma

Note: This section is designed to provide participants with basic information on being trauma-informed when working with justice-involved women. Please feel free to enhance this information with additional materials and current research.



Trauma-Informed Care

Domains 6 and 7 discuss trauma, culture, sanctions and discipline. Although we are talking about trauma as a thread throughout this training, it is particularly important to understand trauma in the context of women’s culture, behavior and our responses. Let’s start by talking about trauma, what it is and how it impacts our work with women. You all should have taken the e-learning training on trauma in Phase 1. So, I will just go over trauma briefly here but it will be a thread throughout all the topics in this training. In this segment we are going to provide a brief overview of the importance of trauma-informed care and why it is important to know when working with justice involved women.

Introduce participants to this segment on trauma-informed care.



Justice-Involved Women and Trauma

Make the point that one of the most critical reasons for being trauma-informed is that trauma is one of the most common experiences shared by justice-involved women is a history of trauma. Review some of the statistics on the slide.

- The estimates for women in prison as high as 90%.
- The majority of women on probation and parole have experienced one or more forms of trauma.
 - Nearly 70% have experienced either physical or sexual victimization as children,
 - 90% have experienced similar victimization with an intimate partner,
 - 72% have experiences physical or sexual violence with a non-intimate partner.
- Most commonly reported traumatic experience is sexual violence, followed by interpersonal violence.
- *So why is trauma-informed care so important? Because your population of justice-involved women is more than likely experienced trauma and it has significant implications for their recovery and success inside and outside the correctional organization.*
- *What is essential in the correctional environment? Safety, trust, options, choices, self-efficacy.*



Principles of Trauma-Informed Care

Introduce the framework for trauma-informed care. Make the point that there are a number of different and emerging frameworks that have been proposed. This one by Harris and Fallot (2006) is one of the first. They propose that knowledge about trauma and the principles of trauma-informed care should be integrated into all policies, procedures, and practices.

Review the principles and provide examples from your own work and experience.

- Safety (e.g., Always remain respectful, provide explanations when initiating a rule or command, de-escalation practices and policies should be implemented)
- Trust (Clarify rules, roles, responsibilities, consistency, accountability)

- Choice (Give her choices whenever possible; options limited but little things pick appointment time or day of visit, etc.)
- Collaboration (Give her autonomy and decision-making; she is in control of what will happen)
- Empowerment (Use a strengths-based approach: What do you need to be successful?)



What is Trauma-informed Care?

When we are trauma-informed, we look closely at all of our practices and always take trauma into account. Provide examples of how routine principles and practices can be a traumatic reminder for women and actually replicate the feelings of helplessness, fear, and pain experienced in the past.

What is trauma-informed care? All programs, practices and services take trauma into account. It is avoiding triggering trauma reactions and responses. It is training staff on how to work with women who have experienced trauma. It is allowing survivors to manage their trauma symptoms successfully so that they are able to access, retain and benefit from the services.

Our goal is three-fold:

- 1. Avoid triggering trauma reactions and/or re-traumatizing the individual.*
- 2. Train, coach and encourage staff to understand and reframe her choices.*
- 3. Allow survivors to manage their trauma symptoms successfully so that they are able to access, retain, and benefit from the services.*



Rule #1 and Rule #2

Summarize key points made earlier (e.g., if we apply trauma-informed principles then we are less likely to DO HARM. By being trauma-informed we reduce this likelihood and we have the opportunity to DO GOOD by focusing on building and mobilizing coping strategies that help her to deal with the impact of trauma.



What Do We Mean by Trauma?

Provide a definition of trauma. There are two listed on the slide. Ensure that participants are comfortable with the terminology (e.g., you may have to explain what is meant by internal and external resources).

Trauma refers to an **EVENT** that results in a **reaction or response** that can range from intense fear, helplessness, or horror - Briere & Scott, 2006

Traumatization occurs when both **internal and external resources are inadequate to cope** with the external threat - Van der Kolk, 2015



Types of Trauma

Make the point that there are many different types of trauma. Provide examples for each:

- **Natural Disasters** – large scale, injury or death-producing environmental events that were not directly human-caused, but affect a large number of people
- **Mass Interpersonal Violence** – intentional violence that involves high numbers of injuries or casualties such as the terrorist attacks on the World Trade Center in New York City
 - Large Scale Transportation Accidents
 - House or Other Domestic Fires
 - Motor Vehicle Accidents
 - War/Torture
- **Stranger Physical, Rape and Sexual Assault**
- **Intimate Partner Violence**
- **Child Abuse**
- **Vicarious Trauma** – workers exposed to victims or trauma often become traumatized themselves

Generally, researchers have found that prolonged sexual abuse in childhood has the most profound and longstanding impacts that can extend into adulthood.



Impact of Trauma

Read the quote by Van Der Kolk to explore the impacts:

Trauma shatters our experience of reality and shatters the sense that we can understand, manage, and find meaning in our world.



ACE Study

Continue to explore the impacts of trauma by looking at the results of the ACE study. Introduce the study – using some of the details on the slide or add your own.

The ACE Study is ongoing collaborative research between the Centers for Disease Control and Prevention in Atlanta, GA, and Kaiser Permanente in San Diego, CA. Over 17,000 Kaiser patients participating in routine health screening volunteered to participate

- Data continues to be analyzed: More than 50 scientific articles and 100 conferences.
- Reveals staggering proof of the health, social, and economic risks that result from childhood trauma.



ACE Study Events

Review the key areas or 10 adverse events under study.

Neglected as a child:

1. Physical neglect
2. Emotional neglect

Abused as a child:

3. Physical abuse
4. Emotional abuse
5. Sexual abuse

Household Dysfunction:

6. Mother treated violently
7. Household substance abuse
8. Household mental illness
9. Parental separation or divorce
10. Incarcerated household member



As the Number of ACEs increase...

Explore the results of the study. Ensure that the following key points are explored:

1. Researchers did not realize how pervasive childhood adverse events were in the general population.
2. The impacts are cumulative... the more ACE's scored- the higher the risk. The impacts include a number of medical, economic and behavioral consequences (provide examples).



As the ACE Score Increases...

Review two of the findings that are particularly relevant for this training.

1. Women 50% more likely to have a score higher than 5 than men
2. Messina & Grella (2012) women in prison – average score ranges from 6 – 10; significantly higher than women in the general population.



Another Critical Finding

Make the point that another critical finding from the ACE study is related to how individuals cope to adverse experiences in childhood. Review some of the survival behaviors adopted by children and adolescents and then discuss the consequences if these behaviors persist into adulthood.

- Personal childhood solutions to deal with early adverse experiences (e.g., drinking, drug-use, self-harm behavior, dissociation, high-risk sexual behavior) may facilitate survival in the moment...
- But can have longstanding negative consequences in adulthood.



Brain Development

Introduce some of the advances in the neuroscience research. What we know about the brain is changing at a rapid pace. Powerful new technologies (e.g., functional magnetic resonance imaging or MRI) have enabled scientists to track the growth of the brain and investigate connections between brain function, development, and behavior.

Explore some of the major findings in the neuroscience research related to trauma. For example:

- The brain needs safe experiences to thrive
- It grows, is “pruned” and learns

- It forms connections
- Life events and how we cope affect how the brain develops



The Women we Serve

Link to discussion of the impact of ACE's on child development. If time permits discuss how parental attachment (absent for many children) can impact a child's sense of safety and trust. Initially the brain is influenced by parent-child interactions, and particularly by the emotional ('attachment') relationship. An early experience with care-givers radically affects the capacity of the child to connect both with self and others. Traumatic experience at any time disrupts attachment. Disrupted attachment can interfere with every human capacity and that interference looks different in different people.

We serve people exposed to trauma, violence, and overwhelming chronic stress, particularly as children, and this affects neural development.



Human Stress Response

Make the point that one of the greatest impacts we have seen with respect to trauma is response to stress. Begin with a brief look at how humans typically respond to stress.

- Humans have the innate capacity to cope with stress.
- When an individual experiences stress or perceives a threat the body is flooded with adrenaline, cortisol, etc.
- The amygdala is triggered and the body prepares for fight, flight or freeze.
- When the threat passes- the body returns to a state of homeostasis or equilibrium (rest and relaxation).



Trauma-influenced Stress Response

Discuss what happens when a child is exposed to trauma- trauma-influence stress response.

- Individuals who have experienced trauma may struggle with or are unable to return to rest and relaxation.
- *The limbic system stays on stuck on "high" alert and is chronically activated.*
- Individual is easily startled, has trouble reading social cues, has difficulty sleeping, and tends to avoid situations that increase stress.



Trauma-influenced Stress Response

Make the point that many of the women we work have difficulty regulating their emotional states and this can result in three different types of behaviors.

- Hyper-mobilized, or constantly scanning for danger
- Hypo-mobilized, or withdrawing and shutting down
- Vacillate between hyper- and hypo-mobilized

Ask the group to consider other behaviors, symptoms or reactions that they have noticed and to consider how these might be linked to trauma.



The Good News

Move on to explore the GOOD NEWS... Make the point that many people – have experienced adverse childhood events or trauma in adulthood and they have learned to cope with the impacts of these events. Introduce the concept of resilience and the resilience research.

- Resilience is the ability of an individual to adjust and thrive after exposure to a highly disruptive event or events.
- It does not mean that life's major hardships are not difficult and upsetting but rather they are surmountable.
- Research suggests that despite conventional wisdom- individuals can and do bounce back from extreme adversity.

“We confuse events with the people who experience them. Never underestimate the resilience of people who have experienced trauma... if you want to build resilience don't go after the trauma but the imprint it has left.”



More Good News

In addition to the resilience research – neuroscientists have discovered that the brain is capable of change in structure and function through a process called neurogenesis and neuroplasticity. Essentially this means we can help women to learn new ways- that are more healthy and adaptive to address the impact of abuse.

- We can teach an old dog new tricks
- Brain can continue to develop new neural pathways and this occurs when we engage in new behaviors



Why is Trauma-informed Care so Important?

Revisit the discussion- Why it is important to be trauma-informed

- Impact of trauma can be life altering.
- We can “do no harm” and “do good” by being trauma-informed and build resilience.



When Trauma-informed

Provide one example of how- training can increase positive outcomes in a facility.

- There is an emerging body of research to suggest that when we address trauma- when staff are trauma-informed when women learn about trauma and its impact that we get better outcomes...
- Benefits of Implementing Trauma-Informed Approaches at MCI Framingham- 2011 - 2012
- Review the benefits



Dilemma

Dilemma: Translating the Model to Practice

Make the point that staff that training in trauma and trauma-informed care is insufficient to teach staff new ways of responding to women who are experiencing stress or reacting in noncompliant or oppositional ways. Training, supervision and ongoing coaching will be essential to ensure that they are confident to respond in a trauma-informed way.



Resources

Describe some of the resources currently available to support training in trauma-informed care and that give staff skills to respond safely and respectfully in the moment.

- Creating Regulation and Resilience (Alyssa Benedict – Core Associates; Orbis Partners)

- Safety First (NIC)



What is Essential?

Explore essential topics in training for staff.

Awareness of:

- Pervasive nature of trauma
- Effects
- Process of trauma

Ability to:

- Provide a safe environment
- Translate behavior
- Identify Triggers
- Use calming strategies
- Help her to develop coping strategies



Resources

Spend some time discussing the importance of trauma-informed self-care. Make the point that at any given moment we may be exposed to painful accounts of victimization as disclosed by our clients or be the recipient of someone's anger and outrage.

Working with survivors of trauma can be stressful and challenge our ability to respond effectively. We are tasked with managing the pressures of everyday life and work responsibilities and may be living with our own experiences of trauma. The cumulative impact of these personal and professional stressors can contribute to feelings of distress and impact our ability to work with women effectively.

Review resources for staff and agencies that assist with professional self-care. Resources should help staff to address impacts of personal trauma and to address vicarious trauma.



Break Slide



9:45 – 10:00 BREAK

10:00 – 10:10 Domain #6

Domain #6: Organizational Culture



Domain #6 Title Slide



Domain #6 Description

Evaluating the agency or institutional culture is essential in making changes.

ASK: *How many of you have tried implementing something new in your agency that was different or out of the norm for the culture?*

What happened? (Discuss)

What did you learn about your organization's culture and implementation of change? (Discuss)

Optional Question for participants (large group): Can you think of a leader who has influenced your organization? (pause) Does anyone want to share what he/she did that influenced your organizational culture?



Organizational Culture

So what is organizational culture?

- *Personal Beliefs*

- *Organizational Values*
- *Education*
- *Politics*
- *What staff brings to the workplace – male and female views*
- *What the women bring to the workplace*
- *It is the personality of the organization*



Culture Defined

While it is safe to say that correctional agency cultures are characterized by these influences, a general definition of culture is:

Agency/facility culture might best be described as how safe, productive, professional, and respectful the environment is perceived to be by both staff and women.

Over the past fifty years the culture of corrections agencies (community supervision, jails and prisons) has undergone significant systemic changes as a result of several influential factors such as:

- *Increased knowledge and research that supports treatment vs. punishment*
- *The implementation of evidence-based practices, including objective assessment tools, case management approaches, and programs that were designed to inform decisions about security needs, institutional housing, release from incarceration and supervision. Most, however, were based upon research and studies of male behaviors.*
- *Increasing corrections populations (both male and female): As a result, there is now a greater focus on the risk, needs and most effective treatment approaches for working with justice-involved women.*
- *An increase in the number of women corrections professionals. In 1967, women made up 12% of the correctional workforce; working in female facilities or in peripheral areas inside of male facilities. Now women make up almost one-half of the correctional workforce.*
- *As more women entered the workplace throughout the nation there was the need to address discrimination based on gender, family orientation and sexual harassment.*
- *Likewise laws and best practices also began emerging in the early 1990s to reduce violence and sexual assault/abuse of incarcerated persons and in 2003 the first PREA law was issued. PREA has evolved to reform the very fabric of the correctional culture of safety.*



Culture is Important

Why is Culture Important?

- *Every organization has a culture that can have a significant influence on the attitudes and behaviors of organization members,*
- *Organizational culture is so impactful it can result in the success or failure of the agency*
- *Leaders shape the value in the culture*

Culture is important because it helps provide consistency, order and structure, boundaries, membership criteria, communication patterns, performance requirements; parameters for rewards/punishment; frameworks for priorities and power; and organization's character.

Your agency's culture is also important to understand in order to succeed and make the changes you want.



Formal and Informal Culture

There is a formal and informal culture in organizations regarding the ways of doing things. Culture includes formal components, such as rules, policies, laws, regulations. It also includes informal components, such as unwritten rules ("the way 'we' do things around here").

What may constitute the "formal" culture in your agency?

- *Policies and procedures*
- *Administrative rules*
- *Vision and Mission Statements*

What may constitute the "informal" culture of your agency?

- *Cliques*
- *Unwritten rules and policies ("the way we do things around here")*
- *Physical force, withholding privileges, etc.*



Domain #6 Most Effective Practical Application

Trauma-informed care and a gender-informed approach are more effective when working with justice-involved women than a sole focus on security and custody. Here are four practical applications

1. *Effective communication – staff conduct must not be disrespectful/degrading, appear overly familiar/make sexual comments, be inappropriately aggressive. Conversations should be strengths-based, encouraging and instructions are clear. Staff must be willing to listen and willing to explain why an instruction is given. They can also be involved in inmate councils, or other groups that help with the effective running of the program or facility.*
2. *Sexual Safety – policy and procedures for identifying, preventing, reporting and adjudication staff misconduct, break code of silence.*
3. *Professional Relationships/Ethical Behavior: Appropriate boundaries; don't ignore inappropriate behavior (staff and woman-to-woman).*
4. *Trauma-informed care: decrease behavior and environment that causes further trauma/re-traumatizing; helps women to develop coping skills to manage trauma; teach not to condone women's misbehavior but understand why she may have acted/reacted this way; gender-informed disciplinary code.*

- Refer to the two NIC bulletins on PREA:

McNabb, M. (Nov 2008) "Translating Research into Practice: Improving Safety in Women's Facilities." *US Department of Justice Bulletin*. Washington, D.C.

Moss, A. (2007) "The Prison Rape Elimination Act: Implications for Women and Girls." *Corrections Today*. National Institute of Corrections.

Also mention the NIC curriculum, "Safety Matters: Relations in Women's Facilities." Available through NIC.

10:10 – 10:20 Activity G



Activity G: Your Agency Culture (Team)

ASK: *In your team, identify one thing you want to change in our agency culture. Discuss why? Then discuss that will that look like. Name three steps you need to do to get you there.*

Look at the research, not on the limits of your culture. This alone will guide you and have the biggest impact on your working environment.

10:20 – 10:30 Domain #7

Domain #7: Offender Management (Sanctions and Discipline)



Domain #7 Title Slide



Domain Description



Offender Management

Offender management is very related to culture. Some sanctions are done by tradition and not examining the impact. Look at your sanctions and review them. Additionally, research on discipline in confinement shows women are more likely to receive discipline for similar rule violations than men. On paper, sanctions may be the same for men and women but women's behavior leading up to the sanction is often interpreted or tolerated differently by correctional staff.

The offender management domain examines the gender-appropriateness and clarity of rules and expectations, the methods for motivating positive behaviors, and the disciplinary practices of the facility or community corrections program.

One gender-neutral policy is exemplified by the NIC program: 6 Elements of Inmate Behavior Management (IBM) that states that management practices should be applied fairly, regardless of gender:

- 1) assessing risk and need*
- 2) assigning inmates to housing*
- 3) meeting inmate's needs*
- 4) defining and conveying inmate expectations for behavior*
- 5) supervising inmates*
- 6) keeping inmate productively occupied.*

There needs to be a link between gender-neutral IBM and the need to have policy, practice, training and supervision on the ranges of behaviors that require sanctions. Refer participants to the National Resource Center for Justice Involved Women, Discipline and Sanctions document.

Of emerging interest to the field of with respect to offender management is discipline and sanctions. Discipline and sanctions is often rooted in the agency/facility culture, and can mitigate or aggravate women's trauma. In fact, the use of traditional correctional sanctions such as segregation, strip searches, pat downs, and restraints, may re-traumatize women who are trauma survivors and may consequently have an adverse effect on facility safety by escalating problem behaviors exhibited by women.

Some strategies to move toward a trauma-informed, gender responsive approach to discipline and sanctions include:

- Staff members and women have a clear understanding of the agency/facility's rules and expectations and what to expect if a rule or expectation is violated.*
- Staff members throughout all shifts consistently apply the rules. Staff members are monitored regarding their ability to enforce expectations, and offenders are held accountable to the same expectations.*
- Staff members work intentionally to address problems that arise with women struggling with the rules, and communicate these problems and needs to incoming shifts. This could include women on parole or probation who appear to ignore rules when in fact, they may be struggling with childcare, transportation, etc. and have difficulty making appointments.*
- Staff members set a positive tone in interactions with women, use affirmations and reinforcers instead of inappropriate confrontation, acknowledge strengths and assets, and use problem-solving techniques to de-escalate problems.*
- Immediate and informal sanctions, incentives, and rewards are recognized as effective methods to modify behavior.*

- *Staff members regularly and consistently apply the 4:1 rule to achieve more positive results with women. (Research states that if you want positive change from an individual, you want to use four reinforcers to every one punishment.)*
- *Leadership and staff review and revise current discipline and sanctions policies and practices (e.g., searches) to make them more trauma informed and gender responsive. Such a review is very timely given discipline and sanctions relevancy to PREA.*
- *Disciplinary actions and responses to unsafe inmate behaviors are communicated in a respectful way and applied in the least punitive manner. Infraction responses are appropriately matched to the women's behaviors, and do not place them in overly high offense or security categories.*



Practical Applications of Domain #7

Do hold women accountable for their behaviors; however, the sanctions, approach, delivery, and severity should include the totality of the circumstance of the offender, including gender sensitivity.

Training staff and volunteers in inter-personal communication (IPC) and problem solving skills is an effective strategy for addressing problem behaviors, de-escalating incidents and preventing discipline behaviors from happening. These are strategies that can help staff to respond effectively to women with past trauma and abuse and can also positively impact agency/facility culture and the use of sanctions.

Review six months of grievances and/or discipline and incident reports. Are there multiple complaints regarding discipline? How many discipline or incident reports are there? Are there different discipline practices among individual staff members or across shifts? What types of sanctions are used to respond to women's misconduct? Use this information to craft revisions to current policies and practices.

Refer trainees to this article for additional information: Wagner, A., Linehan, M. (2006) *Application for Dialectical Behavior Therapy to Post traumatic Stress Disorder and Related Problems. Cognitive Behavioral Therapies for Trauma*. Guilford Press. New York. <http://cjinvolvedwomen.org/discipline-guide/>

Also, NIC has a training on discipline and sanctions working with justice-involved women that may be of interest to you.

Domain #8: Assessment and Classification



Domain #8 Title Slide



Domain Description

This domain discusses the development of and finding related to the Women's Risk Need Assessment (WRNA) www.uc.edu/womenoffenders It focuses on strengths and resiliency and women's needs as a contributing factor to women's risk (dysfunctional relationships, family conflict, parental stress, child abuse, adult victimization, mental health issues, recidivism, etc.)

It also examines procedures for determining custody level, assessing dynamic risks and needs, and identifying vulnerable and predatory inmates (PREA draft standard). Research and prevailing guidelines recommend the use of actuarial assessments over subjective judgments alone. It is important that the tools be valid (predictive) for women and relevant to women's needs and pathways to offense-related behavior. Historically, most correctional assessments were developed for men, validated on male populations, and applied to women with little concern for their relevance or validity. This practice has contributed to over-classification, where women are housed or supervised under more austere conditions than their behavior warrants. It also directs inadequate attention to the needs that are most relevant to reducing future offending among justice-involved women. In recent years, some gender-informed assessments have been developed for assigning custody levels, predicting risk of community recidivism and determining needs. For further background on the research and development of gender-informed assessment tools see www.uc.edu/womenoffenders.

Important to note the existence of other tools that are developed for assessing women to date including SPIN-W, Northpointe Compass as examples....

Key indicators in this domain include:

- The facility uses an objective tool for custody (external) classification that has been validated on a sample of justice-involved women in this facility. The tool includes items relevant to women, ensures placement in the least restrictive environment possible, and is dynamic (can reflect changes in a woman's behavior and circumstances).*

- *An objective tool and process exists to conduct a PREA assessment that identifies those who exhibit either predatory behavior or vulnerability to aggressive sexual behavior.*
- *The facility or community corrections program uses an objective and valid assessment of risk of reoffending to guide reentry planning.*
- *Dynamic risk/need factors, and strengths are assessed and determined to be valid. These include gender-informed needs and strengths relevant to women.*
- *The assessment of risk, needs, and strengths guides the development of an individual case plan, and recommends access and referral to critical services.*



Assessment and Classification

Agencies should have procedures for determining custody level, assessing dynamic risk and needs, and identifying vulnerable and predatory inmates (PREA). These procedures must include validated, actuarial assessments rather than subjective assessments alone.



Assessment and Classification

Agencies must use a number of different assessments in order to get a full picture of the women that they are working with:

- 1) agencies must use an objective, dynamic tool for custody level or risk level that has been validated on women in the agency;*
- 2) agencies should use an objective tool and assessment process for PREA assessment that has been calibrated to identify traits most associated with vulnerable and predatory females;*
- 3) agencies should use an objective and valid assessment of risk of reoffending to guide re-entry planning and community supervision;*
- 4) agencies will want to use a dynamic assessment for risk/need factors and strengths relevant to women; and*
- 5) agencies should utilize the assessment information so that women collaboratively develop an individual case plan guided by risk, needs, and strengths. These case plans should connect women to programs and services that foster stability and reduce the risk of recidivism. Assessment and classification is not a one-time event. It involves ongoing reassessment to monitor change overtime.*



Assessment and Classification – Practical Applications

Assessment and classification is important across agency settings; however, you may find that there are unique aspects to assessment and classification based upon the

setting that you are in. For example, jails and prisons will be concerned with custody level, housing assignments, programming and service decisions, and re-entry planning. Probation and parole departments can use assessment and classification to inform pre-sentence investigations, sentencing conditions such as court ordered treatment, reporting standards, programming and service decisions, and transitional planning. Pretrial agencies may use assessments to determine pretrial service connections. Are there any other ways in which you can think to use assessment and classification within your agency?



Best Practices

- *Lower base rates of offending*
- *Lower scores generally on risk assessment tools*
- *Less violent sentences*
- *Meaningful targets*

Van Voorhis, Bauman and colleagues at University of Cincinnati; Robinson and Jones at Orbis Partners; Brown and Blanchette at Carleton University and Correctional Services of Canada.



Best Practices

- *Gender neutral assessment tools predict for males and females.*
- *Our ability to predict is enhanced when we use an empirically-derived gender-informed tool.*
- *Some items are more powerful for women and some items are unique for women.*



Gender-Responsive Assessment: Benefits

We benefit from using gender-informed assessments. Here is a list of gender neutral components:

- *Antisocial attitudes*
- *Antisocial peers*
- *Temperament and personality (cognitive skills deficits)*
- *Behavioral history (aggression, substance abuse)*
- *Family*
- *Vocational/education; employment*

Here are some gender salient or specific components:

- Mental health issues
- Exposure to interpersonal violence in intimate and personal relationships, childhood abuse and neglect
- Substance abuse
- Child custody/care/visitation
- Parenting skills/parental stress
- Community stability – safe housing, finances
- Protective factors
- Self-efficacy; optimism
- Developing marketable skills
- Attachment

10:45 - 11:00 Domain #9

Domain #9: Case and Transitional Planning



Domain #9 Title Slide



Domain Description

This domain focuses on the process used to address individual and unique needs including:

Risk factors that are linked to future offending

Behaviors and needs that can contribute to difficulties with adjustment

*Case and transitional planning involves addressing the **individual and unique needs** of women. This entails targeting risk factors and criminogenic needs that elevate the likelihood of future criminal behavior as well as, addressing needs that can pose a challenge for her when adjusting to incarceration or while under community supervision. For example, a woman who has experienced complex trauma (prolonged childhood abuse) may have difficulty adjusting to routine practices in the facility or a woman who has children while under community supervision may struggle to find child-care when asked to meet with her probation officer.*

Review the critical elements of effective case work. Team members are familiar with the research on women and use a collaborative, strengths-based, relational and trauma-informed approach when working with women.



Domain Key Considerations

Key considerations in this domain include:

- *Case planning is initiated at the beginning of a woman's stay in the facility, and routinely reviewed and updated throughout her period of incarceration.*
- *A team approach, that includes the woman and professionals from various disciplines, is promoted to ensure coordination and continuity of services within the institution and during transition to community supervision. Justice-involved women are actively involved in the case management process.*
- *When making a referral, deliberate efforts are made to introduce the woman directly to a service provider, provide detailed information about the service, and directly link the woman to natural supports in the community prior to leaving the facility.*
- *Connecticut has some great information on gender-informed case management.*



Research

Highlight Lipsey's 2009 findings. Briefly discuss the importance of desistance research and turning points that serve as deterrents to crime. See for example: *Lindsey Devers 2011). Desistance and Developmental Life Course Theories: Research Summary. Bureau of Justice Assistance.* This research points to the need to facilitate employment opportunities and to build other social bonds.

Finally refer participants to the summary paper focused on the Collaborative Case Work Model for Women- formerly known as the Women Offender Case Management Model- WOCMM (Van Dieten, 2015). This paper provides a description of the model, reviews considerations for implementation and discusses outcomes. Women Offender Case Management Model (WOCMM) www.nicic.gov/library/021814, risk, need and strengths; motivational interviewing; team case management; having a justice-involved woman as part of the team.

Also check out "The Good Lives" model which is quite comprehensive.



Practical Applications

How do we move from theory to practice? Not all staff want a gender-specific caseload. We want them to be strategic, knowledgeable and to embrace the work. Yet, many staff say they are happier with gender-informed caseloads mostly because with training, awareness and preparation, staff see changes and results with the women. The work becomes rewarding.

In recent years, new models of case management have been designed to better support treatment in custody and transition to the community. For example, the NIC Transition

from Prison to Community Initiative (TPC) recommends that release planning begin at the point of prison intake, and reassessments to update case plans occur at regular intervals throughout the correctional stay. At the point of prison release, inmates leave with knowledge of community sources of support and referrals to community agencies that will continue to address acute needs such as substance abuse, mental health, employment, and financial assistance, and cultural and tribal-based needs. NIC's Women Offender Case Management Model (WOCMM), developed by Dr. Marilyn Van Dieten, describes a gender-informed case management approach that involves the women in case planning decisions, utilizes Motivational Interviewing, prioritizes treatment goals, and plans for women's involvement in other community services.

Briefly discuss innovative practices that can be used regardless of how long the woman is in the facility. The teams will have the opportunity to complete an activity so this segment should just introduce possibilities.

11:00 – 11:15 Activity H (Optional)



Activity H (optional): Assessment and Case Management (Team)



Activity Instructions:

(15 minutes) The primary goal of this activity is to give the participants the opportunity to reflect on the assessment and classification tools that they are currently using and how they are being used. Assessments are less likely to be used by individuals working in jails. However, participants from jail settings are encouraged to complete this activity in order to explore potential opportunities in their sites.

This activity has two parts. Give the participants approximately 10 -15 minutes to complete Part 1 and Part 2 and then using the remaining time to debrief and provide information. Encourage the participants to work in their small groups and to use any of the documents that they brought with them to complete this activity. Ensure that all coaches are circulating to assist with the activity.

Part 1: Assessment

1. Reflect on the assessment you are currently using and check off all factors that are currently being assessed.

Factors	✓
Attitudes supportive of crime	
Social support for crime	
Criminal history	
Executive functioning (problem-solving, goal-setting, decision-making, etc.)	
Substance Use	
Family support	
Employment/school	
Leisure/recreation	
Emotional regulation (manage anger, depression, etc.)	

Factors	✓
Past victimization, abuse & trauma	
Mental health issues	
Safe and stable housing	
Intimate partner violence	
Parental responsibilities/ stress	
Physical health	

Self-esteem

Community support and resources

Financial stability

2. Circle those factors that you feel are most salient for women.

3. Are you assessing for strengths as well as risk and need factors? If yes, underline each factor where strengths are explored.

4. At what point are staff implementing the assessment? If an assessment is not being implemented, indicate when you would like to administer it.

5. Some of the factors that we assess can be extracted and then verified directly from a file (e.g., criminal history, mental health diagnoses) What approach do you feel should be used to elicit sensitive information (e.g., history of abuse) or to assess the woman's attitude toward crime or skills and abilities)?

Part 2: Case and Transitional Planning

1: How are you using the assessment information? Check all that apply.

- ☐ Not currently using an assessment
- ☐ Intake – placement and classification decisions
- ☐ Intake – case planning and program decisions
- ☐ Intake – safety screening
- ☐ Ongoing – reassess to monitor progress
- ☐ Transition and Discharge- reassess to determine needs and strengths prior to release

2: List the top five factors (need areas) that are most critical for successful transition.

1	
2	
3	
4	
5	

3: Indicate with a check if the statement is true for each of the various factors.

Factor	Programs, resources and services are provided by facility staff.	Programs, resources and services are brought in from the community prior to release	Efforts are made to link women to services prior to release.
1			
2			
3			
4			
5			

4: Given services you provide, what outcomes do you feel the women should achieve prior to release? How would you measure these?

Outcomes	Measures of Success

11:15 – 11:30 Domain #10

Domain #10: Research-Based Program Areas



Domain #10 Title Slide



Domain Description

This domain covers how to incorporate the science and what we know works for women in practice.



DOMAIN #10 - Research Based Program Areas

There is a growing body of research to support the use of gender-informed programs. Recently Gobeil, Blanchette and Stewart (2016)¹ conducted a meta-analysis of 37 studies (which included over 22, 000 women) and discovered that gender-informed programs did as well as gender neutral programs in contributing to reductions in recidivism (rates of 22 - 35% greater odds of community success). More importantly, when gender-informed interventions are delivered and evaluated with methodological rigor they are significantly more effective than gender neutral programs.

In this domain we provide a cursory review of core programs offered to women.

Review slide content. Make the point that a list of research based programs and options are available – see for example, the National Resource Center on Justice Involved Women.

Van Dieten, M. & King, E., (2013). Advancing the Use of CBT with Justice-Involved Women. In *Forensic CBT: A Handbook for Clinical Practice*, First Edition (Edited by Raymond Chip Tafrate and Damon Mitchell). New York: John Wiley & Sons, Ltd.



Research-Based Core Program Areas

This is not a thorough program review but efforts are made to examine core programs across six dimensions that enhance quality of implementation and contribute to favorable outcomes.

¹ A Meta-Analytic Review of Correctional Interventions for Women Offenders: Gender-Neutral versus Gender-Informed Interventions.



Domain #10 - Practical Applications

There is a growing body of research evidence to support the use of gender-informed programs.

Despite the traditional view that programs found to be effective for men are also effective for women, there is a growing body of research to support the use of gender-informed programs. The gender-informed programs that have been evaluated share some commonalities.

First, they are grounded in content that reflects the realities of their lives. Second, like CBT programs designed for men they generally focus on helping women build resilience (mobilize resources and develop new executive skills and coping strategies through guided skill development and practice). However, the targets of intervention focus on the salient needs that bring women into the system.

In addition to a number of core programs that have been evaluated, we are also seeing the emergence of a number of innovative practices that combined with more traditional approaches like CBT lead to enhanced outcomes. For example, many CBT programs are incorporating mindfulness, yoga, meditation and brief -strengths-based interventions like Motivational Interviewing.

For facilities where clients stay for short periods of time or where the length of stay cannot be determined there are options for continuous intake (e.g., Moving On, journaling). Moving On addresses the major targets in a modular format so that women can enter at the beginning of any module and complete as much of the program as possible. In New York- what is not completed inside, is continued by service agencies on the outside.

Peer led interventions hold promise for many reasons – such as enhancing the personal development of peer leaders as well as addressing limitations with staff resources. Finally, developments in technology hold considerable promise and offer the opportunity for more women to engage in self-directed learning.

11:30 – 11:45 Domain #11

Domain #11: Services



Domain #11 Title Slide



Domain Description

This domain covers the actual services that are offered and whether they gender-informed.



Six Service Areas

This domain reviews the six critical service areas with regard to important attributes of gender-informed practice to include medical, mental health, transportation, food, legal services, and victim services. Important factors in each service area are described below:

(NOTE: To avoid repetition, you might want to skip these topics if it has already been covered by other presenters. You can just mention the topics but not the description)

1. Medical Services

- *Appropriate gender-appropriate services for women are available and easily accessible. There is an organized and timely process to respond to women's requests for medical services. Confidentiality, dignity, and respect of patients are primary concerns. Sensitive questions about sexual activity, pregnancies, and abortions, etc. are often asked in a very clinical manner and without regard for the underlying emotion, creating anxiety for the woman. Issues related to trauma may have been dormant for years, complicated by drug use, and when brought to the surface, could result in acting out behavior, depression and even suicide attempts. There is a need to ensure that sufficient attention is paid and follow-up/referrals to mental health for evaluation. Many health care providers state they want to be "caring" and "sensitive" but cite workload and the short time span to process many inmates as problematic.*
- *Research reveals that in addition to ob/gyn and reproductive health issues, women have extremely high rates of eating disorders, cancer, STD's and HIV/AIDS and heart attacks.*

- *Women's dental needs may be significant, given lack of proper oral health and the effect of lack of nutrition and drug abuse.*

Practical Applications

- *Reach out to providers and schedule in-house clinics and information that address the routine and chronic medical issues of women, including diabetes, reproductive and prenatal care, menopause and perimenopause, cardiovascular disease, cancers, HIV/AIDS, sexually transmitted diseases, eating disorders, and osteoporosis.*
- *Consider all pregnancies to be high risk, requiring attention, given that women may have had no prior ob/gyn care and may have been using substances prior to incarceration.*
- *There is access to routine dental service.*
- *Medical staff are trained to provide gender-specific services including how to identify signs of sexual abuse during routine medical and dental examinations. Roles and responsibilities of medical staff are well defined, and clinical supervision holds staff accountable through a chain of command. Staffing represents the cultural diversity of the offender population.*
- *Medications are safely and securely stored and dispensed.*
- *Develop MOU's or contract language addressing necessary gender-informed services.*

2. Mental Health Services

- *Access to mental health care is timely and appropriate given the high rates of various types of behavioral health issues with this population. Twenty-four hour access to emergency mental health services is available.*
- *Depression for women can be related to perinatal and perimenopause as well as links between experiences of trauma and mental health symptoms, the frequency of depression, anxiety, eating disorders, domestic violence and sexual victimization.*
- *Clinical staff meets relevant credentialing requirements and are trained to recognize and assess women's mental health issues. Clinical staff understand their role in responding to sexual abuse and are guided by protocols regarding the reporting and investigative processes.*
- *Pre-cursive signs of mental health issues or de-compensation are addressed in a respectful and professional manner. Alternatives to isolating mentally ill offenders from general population are utilized to include eliminating the use of administrative segregation.*
- *There is a professional and mutually supportive relationship among medical/mental health staff and security, treatment, and program staff.*

Practical Applications

- *Trauma-informed training is provided to custody staff to understand and appropriately address behaviors related to mental health issues. An excellent example is discussing the negative and powerful impact use of disrespectful language has on women's emotional well-being.*
- *Work with clinical staff or utilize outside resources to develop coping mechanisms that can be shared and utilized by the women (i.e., grounding exercises) who may be experiencing trauma symptoms.*
- *Offer a group to support women in recognizing and addressing symptoms of anxiety, depression, trauma, etc.*
- *Healing Circles*

3. Transportation Services

- *Transportation is a staff intensive requirement of institutional operation and transport of women requires attention to policy and practice. To ensure safety from the potential of sexual abuse, utilize transport teams that include a female staff person. During each trimester of pregnancy, there are issues to be considered that preclude shackling and use of restraints. This would also apply to use of shackles when giving birth and post-delivery. The danger of shackling impacts a women's balance, ability to move during the birth process to reduce the possibility of medical complications and in the bonding process post-delivery.*

Practical Applications

- *Departmental policy includes a gender-informed transportation protocol. The policy is specific with regard to the safe transport of pregnant women.*
- *Shackles for pregnant women are eliminated during pregnancy with particular attention to the third trimester, during labor and birth.*
- *Non-medical male staff are not present during medical visits including the labor and birthing process.*
- *At least one female staff person is present during the transport of justice-involved women.*



Services (Con't.)

4. Food Services

- *Women's unique dietary and nutritional needs are assessed and accommodated to meet differences in women's physiology and during pregnancy. This includes attention to menus that decrease carbs and increase fruits and vegetables and a reduced caloric intake. Women can experience osteoporosis and require additional iron in their diet.*

Practical Applications

- *Daily access to fresh fruit and vegetables, and food lower in fat and calories, sodium, and sugar are provided. Pre-packaged foods are avoided as part of daily meal offerings (e.g., packaged muffins, cookies).*
- *Clinics on healthy eating and food preparation are provided.*
- *Develop handouts on nutrition and healthy eating.*

5. Legal Services

- *Given the practical needs of women who have children, women who are victims of domestic and sexual violence access to legal information is critical. As the women's population is smaller than the male population, often time access to legal documents (if they exist) is minimal.*
- *Legal services must exist to address the unique needs of women, and legal clinics are regularly scheduled and advertised. Issues of particular interest to women include child custody and access, parental rights, and restraining orders. Women also are concerned with issues of equal protection, access to programs and services, staff misconduct and other PREA related issues, and due process rights.*

Practical Applications

- *Schedule legal clinics using outside resources.*
- *Train inmate legal clerk*
- *Legal materials are available to the women and easily accessible.*
- *Women are clear on their legal rights regarding access to children and visitation.*

6. Victim Services

- *Services exist that provide ongoing support for issues related to personal abuse as well as programs for women as perpetrators of crime. Programs are gender-informed, and guided by evidence-based and gender-informed research.*

Practical Applications

- *Develop community resource handbooks that are available to women and their families*
- *Information is available regarding community resources, and information about victim assistance is posted throughout the facility or community corrections office.*
- *Materials regarding victim assistance to include safety planning are made available as part of the orientation process and reentry processes.*

Culturally-Relevant Services

- *All these services should be culturally relevant. Culturally relevant and appropriate services are available for women of color, particularly women whose cultural ties may determine their ability to return to home communities.*

ASK: Has your agency complied with all PREA standards which cover victimization, mental and medical health responses, etc.?

Family Services

ASK: What type of family activities do you do in your facility or program, such as visitation, family/parent/child events; family reunification efforts; innovative parenting programs?

11:45 – 12:00 Domain #12

Domain #12: Quality Assurance and Evaluation



Domain #12 Title Slide



Domain Description

This is the last GIPA domain. It explores the extent to which the correctional agency uses quality assurance methods to review and improve all functional units.

Considerations include:

- *Audits and process evaluations are conducted in each functional area to measure adherence to correctional standards and the fidelity of treatment programs. Outcomes are examined to assure that the facility, its programs and community corrections are having a favorable impact on the lives of female offenders.*
- *The correctional agency makes use of process and outcome evaluation findings to guide decision-making and improve programs, operations, and services. Thus decisions are not based on hunches or preferences that are uninformed by good information and analysis.*
- *Data collection is a foundational piece to begin to do quality assurance and to evaluate your organization and programs.*



Did the Program Fail the Women?

This last domain is often ignored yet is it critical in order to succeed. We must always ask, did the women fail the program or did the program fail the women?

Agencies should use quality assurance methods to review and improve all functional units. This means utilizing data to determine how well we are doing what we are trying to do!

Agencies should look at audits and process evaluations measuring adherence to correctional standards and fidelity of treatment programs. Examples of those types of evaluations can include assessments like the GIPA (NIC), the GRPPA (NIC), the GR-CPI (Van Voorhis), PREA audits, and ACA accreditation. Agencies should also monitor outcomes to assure that the agency is having a favorable impact on the lives of the women they serve. These outcomes can include recidivism (re-arrest, re-incarceration, violations, disciplinary infractions, etc.), program completion, service utilization rates, employment data, parental reunification, as well as a number of other impacts. Agencies should also make use of process and outcome evaluations findings to guide decision-making and improve programs, operations, and services. These types of decisions may include funding of existing programs, adoption of new programs and services, staffing of the agency, or program schedules.



Domain 12: Quality Assurance and Evaluation

There pieces of data that an agency can collect are almost limitless. If you look at the simple diagram here, you can see that for each component identified (the agency, the staff, and the women) there are data points shooting off. For instance, for the agency you may wish to track annual budgets, staffing numbers, policy changes, annual recidivism rates, average case load size, or the number of women under supervision. With the staff members, you may track the types of training that they have completed, the degrees held, the size of their individual caseloads, employee satisfaction, or the number of grievances filed against them. For the women, you may track age, race, length of sentence, risk level, needs, program completion, or recidivism.

The key is to know what questions you want to answer. Agencies may wish to know the answers to questions such as:

- *Are our programs working? If not, why?*
- *How are our staff performing?*
- *Are we having the impact that we want to have on the women we serve?*
- *Are our decisions informed by our data?*

ASK: What other types of data might you want to track? What would be important to your agency?



Lunch Slide



12:00 – 1:00pm LUNCH

1:00 – 1:20 Activity I

Activity I: Data Review

(30 minutes) In this activity, we are going to talk about the importance of using data to assist with decision-making and strategic planning. You will be given the opportunity to explore how data can be used to inform decision-making and strategic thinking. But first, let's talk about the three types of data:

1. *Individual case information- is gathered from assessments, intake interviews, file information, etc. that might include basic demographics, criminal history, information about the current offense, sanctioning and treatment goals, behavior and performance, risk level, needs and strengths, etc.*

ASK: How can we use this case information?

Try to elicit specific examples. Sample responses include: to make classification and placement decisions about an individual woman at various points; to develop a case/transition plan or treatment plan that addresses each individual's needs.

2. *A single point in time (e.g., number of women on probation caseloads). They can also be used to give a cross-section of women who pass*

through a particular decision point over a period of time (e.g., number of women who entered the local jail).

ASK: *How can we use relational databases?*

(A relational database are often in tables where one factor is correlated to another factor – such as women, age, race, length of sentence)

Try to elicit specific examples. Sample responses include: to determine staffing priorities; programmatic needs at a point in time; and, aid in strategic planning and decision-making.

3. *Aggregate data provide us with actual counts, percentages or rates of people, cases or events that occur. We can use aggregate data at a single point in time or to look for trends at intervals over a period of time.*

ASK: *How can we use aggregate data?*

Try to elicit specific examples. Sample responses include: to monitor workload “*How many women were supervised by Miss Miller last year?*”; to assist with budget development- “*How much will it cost to feed the women in New York prisons next year?*”; to assist with determining program needs “*How many women have a substance abuse problem?*”; to assist with strategic planning “*How can we reduce the number of women entering New York jails and prisons?*”



Refer participants to the workbook.

You will be working in your small groups doing a review of your available data. Your activity instructions are in your workbook.

First, review documentation that you have brought with you. Ideally, each small group will have some data related to operational practices (e.g., the number of disciplinary actions recorded, mental health referrals, staff turnover); programming (e.g., risk/need level of women entering the facility, number of women accessing specific programs or services, behavioral change) or recidivism outcomes. Some of you may have very little data. If this is the case, focus primarily on questions 2 and 3 in your workbook.

Spend a few minutes discussing possible limitations to data. Emphasize that in order to use data effectively, it is essential to be a critical consumer of information. This entails working to understand how data is collected, updated and the quality assurance methods that are used to ensure that the data is truly representative of the individual, population, program or system being described or evaluated.

You will have 15 minutes to review the data/documents you brought with you and respond to the three questions in your workbook:

1. Check all areas where data is available and indicate any other information you feel would be helpful to guide decision-making or strategic planning efforts.

Available	Data
	Criminal history <ul style="list-style-type: none"> • Age at first arrest • Previous adult convictions • Variety of offenses
	Family <ul style="list-style-type: none"> • Family history (child abuse and neglect) • Extended family supports • Number of children (custody and non-custody) • Family violence • Parenting skills • Intimate partner violence
	Social Network <ul style="list-style-type: none"> • Peer relationships • Neighborhood • Community resources
	Substance Use <ul style="list-style-type: none"> • History, frequency, severity and type of use • Response to treatment
	Mental Health <ul style="list-style-type: none"> • Diagnosis • Medication • Response to treatment
	Executive Functioning <ul style="list-style-type: none"> • Emotion regulation • Problem-solving • Decision-making
	Vocational/Employment
	Attitudes and Orientation
	Community Stability <ul style="list-style-type: none"> • Housing • Finances • Medical resources
	Response to Community Supervision <ul style="list-style-type: none"> • Number of technical violations • New charges while under supervision • Failure to appear in court
	Institutional Behavior <ul style="list-style-type: none"> • Number of disciplinary reports • Number of mental health requests

	<ul style="list-style-type: none"> • Placement in segregation • Escape custody
	Program Involvement <ul style="list-style-type: none"> • Participation in core programs • Participation in services • Participation in vocational training • Work placements
	Length of stay
	Other (specify):

2. If data is being collected on a relatively routine basis, discuss how information is collected and updated. Are you aware of any limitations to the data (e.g., Is data reported separately for males and females? Is the sample size sufficient to represent the population of interest? Are you satisfied with the way data is collected, analyzed and distributed)?

3. Generate one research question or a series of questions that when answered will help you with your Action Plan. Consider the information you will need to collect; the type of data you will need (e.g., individual, relational, aggregate) and the methods you will use to collect the data.

Debrief the activity:

Ask the small groups for their general reactions regarding the breadth of data that is currently collected and available to them.

Debrief the three questions. Try to ensure that each group has generated one research question or a series of questions that will assist them to develop their Action Plan and the methods they will use to elicit quality data.



Cross-Site Discussions

1:20 – 1:50 Cross-Site Discussions

Generate a list of topics that may be of interest to the class and assign those topics to different parts of the room. Have training participants as a team self-select and go to a group that interests them. If you become tight on time, you may delete this activity.

1:50 – 2:25 Tour NIC Library

If the training is being held at the academy in Aurora, Colorado, take this time to allow participants to explore the NIC Information Library. They can use this time and tie it into the break time as well. If training is held elsewhere, just expand the time for the Cross-site discussions.



Break Slide



2:25 – 2:40 BREAK

2:40 – 3:00 Partnerships



Partners – Bringing them Together

Collaboration

Earlier we talked about “stakeholders. “What is the difference between a stakeholder and a partner? A stakeholder has a vested interest in something (professional, financial, other) or an outcome. A partner may or may not be a stakeholder, but they work together with you in collaboration towards a common goal.

- When we think about the term partners, we often think of the word collaboration. The term “collaboration” is sometimes over used and misunderstood. Both individuals and agencies engage in four very different levels of joint activity: Collaborating, Networking, Coordinating, Cooperating.
 1. Networking is the simplest form of joint activity. It is best described as the exchange of information for mutual benefit.
 2. Coordinating refers to the exchange of information and the altering of activities for mutual benefit.
 3. Cooperating expands the definition of coordinating to include not only the exchange of information and the altering of activities, but also the sharing of resources for mutual benefit.
 4. But collaboration reaches beyond these concepts, bringing with it a much higher level of commitment and responsibility. Individual and organizational collaboration shifts the focus from competition to consensus; working alone to working together; and from thinking about activities to thinking about results.

Collaboration is two or more people, organizations, or groups, working together to achieve a common goal that is impossible to reach without one another.



Does your Agency have all the Resources Necessary?

- Earlier we talked about barriers. Now ask yourself, does your agency have all the resources necessary to address the following barriers that justice-involved women often encounter?
 - Limited Housing (appropriate and safe)
 - Unemployment (independent wages)
 - Education
 - Mental Health
 - Substance Abuse
 - Health Care
 - Financial Instability
 - Family Concerns and Childcare
 - Culturally relevant services and resources for women

*The problems and challenges are too great for one agency. Could partners help?
If so, who would that be?*



Barriers to Action Plan

Barriers to Strategy Deployment and Execution

- *Only 5% of the workforce understands the strategy*
- *Only 25% of managers have incentives linked to strategy*
- *60% of organizations do not link budget to strategy*
- *85% of executive teams spend less than 1 hour per month discussing strategy*
- *9 of 10 organizations fail to execute strategy*

Gartner Consulting, Seattle, Washington



Characteristics of Successful, Collaborative Partnerships

- *Characteristics of successful, collaborative partnerships. Discuss.*
 - *A clear and elevating goal*
 - *A results-driven structure*
 - *Competent team members*
 - *Unified commitment*
 - *A collaborative climate (honesty, openness, consistency, respect)*
 - *Standards of excellence*
 - *External support and recognition*
 - *Principled leadership*
- *A key component of the Collaborative Case Work – Women is to “build essential partnerships with the community and enhance its capacity to serve justice-involved women (i.e., ensure that critical resources are available and readily accessible.”*
- *Leadership can add tremendous value to any collaborative endeavor, even to the point of sparking the outcome with an intangible kind of magic.*
- *Effective leaders draw partners together – often in a seemingly effortless yet inspiring way – vision, a belief in the opportunity for change, and the ability to meaningfully involve others.*



DVD Slide



Show DVD: “Partnerships” (9 minutes)

3:00 – 3:35 Module 3: Implementing your Agency-wide, Gender-informed Action Plan



Title of Module



Trivia Question

- *When did the National Institute of Corrections (NIC) first take a leadership role on issues concerning justice-involved women?*

Answer: 1981

In 1981, NIC-sponsored the “Seminar on the Female Offender” in Chicago, Illinois. It was attended by 36 state corrections officials (wardens, superintendents) and local service providers. It examined justice-involved women demographics, legal status and programming and vocational, and staff training needs. A list of reforms was generated. In attendance: Colorado, Delaware, Georgia, Illinois, Massachusetts, Minnesota, Nebraska, Nevada, New Jersey, Wisconsin. (NIC was formed in 1974)

- *In this module, we are going to be talking about some additional critical parts to the success of implementing your gender-informed agency-wide action plan: thinking through an “implementation plan.”*

Let’s first revisit the Nine-Step Agency-wide Model. We have already covered Steps #1-4 and are now on Step #5 which falls under implementing.



Step #5: Environmental Scan (Beginning)

Step #5: Beginning the Environmental Scan

Environmental scan has many pieces. It can look at:

- *Data on the women*
- *The organization itself*
- *Political realities*
- *Best practices*
- *Gap analysis*

Environmental scan – justice-involved women

- *What do we need to know about the justice-involved women in our jurisdiction?*
- *Where does that information exist? How do we access it?*
- *If it does not exist, how will we collect it ... or get along without it?*



Environmental Scan Cont'd. (Information about the Women)

Environmental scan – information about the justice-involved women

- *Who are the women in the system?*
- *How did they get here?*
- *What happens to them while they are here?*
- *What happens to them after they leave?*
- *What is their support system?*
- *What is their best hope for themselves?*
- *What is the system's responsibility to them? To their families? To their communities?*



Environmental Scan Cont'd. (Information about the Organization)

Environmental scan – information about the organization

What do we know about our agency's

- *Resources*
- *Climate – think of your organization as weather (Is it raining? Sunny? Stormy?)*
- *Communications*

... that would assist or impede our agency's leadership in determining our future course of action?



Environmental Scan Cont'd. (Political Environment)

Environmental Scan – information about the political environment

- *What are the attitudes of our elected officials about justice-involved women?*
- *What are the attitudes of our community about justice-involved women?*

- *Are there community-based groups advocating for the rights of justice-involved women? How can you collaborate, not fight, these groups? Invite them on a committee, etc.*
- *How can we collaborate with them?*



Environmental Scan Cont'd. (Best Practices)

Environmental scan – information about the national models and best practices

- *What other jurisdictions are trying to do something similar to what our agency is trying to do?*
- *Are there lessons to be learned from them?*
- *What does the literature say about best practice in these approaches?*



Environmental Scan Cont'd. (Shared Future Vision/Buy-in)

Envision the future -

- *Does everyone in the organization/environment have the same shared vision of a preferred future for the justice-involved women in our agency?*
- *How will we enlist others to generate this shared vision?*
- *How will you become a mentor and coach to facilitate the involvement of others?*



Environmental Scan Cont'd. (Gap Analysis)

Conduct gap analysis – This is what GRPPA helps you do

Considering what we now know about

- *Our vision for the justice-involved women in our jurisdiction*
- *Profile of the women*
- *Our stakeholders*
- *Existing programs and services*
- *Where are the gaps?*



Step #6: Develop Goals

Step #6: Develop Goals and Objectives

- *What is the difference between what the agency has now and what it needs to have in the future in order to achieve our shared vision?*
- *Broad areas of emphasis that need to be addressed to implement the vision and mission*

- *Few in number, typically 3 or 4*
- *First steps in the “road map” for transforming the vision into action*

ASK: What do we want your agency to accomplish with justice-involved women in your jurisdiction in the next ten years? (Based on everything you have learned in the steps so far). What direction shall we take?



Desired Long-term Outcomes

Desired long-term outcomes

- *A high-level measure that allows an agency to determine its degree of success in achieving its associated goal*
- *A broad result that an agency plans to achieve in the longer term, three to five years in the future*
- *At least one desired long-term outcome for each goal*



Objectives

Develop objectives

- *Objective: a statement of what is to be achieved over a specified period of time and by whom.*
- *An objective is the transformation of a goal into a measurable action*



Logic Model

Logic Model

- *How many of you have done logic models? A logic model helps lay out the path of action in a linear, logical and causal format.*
- *A logic model helps layout the path of action in a linear, logical format.*
- *It shows the connection of everything you do and if it, in fact, will lead to the desired goals.*
- *Each box in the model has an activity in it that leads to the next activity in the next box.*
- *You can put the words “so that” after each activity to show its connection to the next box/activity.*
- *If you begin to deviate in the agency’s activities, it will show that you will not reach your goals.*
- *It helps measure impact.*
- *It shows who is responsible.*



Step #7: Develop Operational Plans

Step #7: Develop Operational Plans

Operational plan specifies:

- Action steps
- Deliverables
- Time-line
- Responsible parties
- Other resources needed

This is basically your action plan and you will leave here at the end of this week with a solid, workable data-driven action plan to take back with you and your team.



Step #8: Implement the Plan

Step #8: Implement the Plan. These last two steps, *Step #8: Implement the plan and Step #9: track, monitor and evaluate the plan*, are both done back at your agency. In Module 3, we will be going over *Step #8: Implementation* in more detail.



Step #9: Track, Monitor and Evaluate

Step #9: Track, Monitor, Evaluate

- *Step #9: Track, Monitor and Evaluate your Plan will be done later as well but it is important to think about how to do these things as you develop your plan. What systems are already in place to monitor action plan milestones?*
- *How will we establish an Early Warning System to notify us when something goes off track? Or a stakeholder introduces a new priority?*
- *How will we conduct formal evaluations of the effectiveness of our new system?*



Predicting the Future

Organizational readiness is all about change and trying to predict the future.



5 Dimensions of Change Readiness

1. Structural
2. Systemic

3. *Climatic*
4. *Technological*
5. *People*

3:35 - 4:30 Work on Action Plans



Action Plans



Work on Action Plans

Have trainees break into their teams. Ask trainees, “*What information do you want to add into your plan? Think about Domains 6-12 that we covered today. Is there anything from those Domains that you want to incorporate into your Action Plans?*” Allow trainees time to write notes into their Action Plans. At this time, coaches should begin to discuss (and possibly sign) with their assigned teams the “Team Coaching Agreement” located in the Participant Workbook.

Additionally, in Phase 1 of this training trainees were asked to bring several agency documents with them to review as they develop their action plans. Have them get out their materials for review. The activity instructions and guiding discussion questions are located in their workbooks.



Document Review Instructions

1. The top three issues or problems on which they wish to work as a team;
2. The following materials which will be used in the team small group activities:
 - a) Vision and mission statements
 - b) Goals and objectives for agency/organization
 - c) Agency strategic plan
 - d) Organizational chart - structure
 - e) Relevant justice-involved women policies and procedures
 - f) List of program services for women
 - g) Data from last 12 months that show women’s offenses and length of stay; population profiles; population projections. Recidivism data by gender, if available. Data that shows disciplinary reports,

revocations, etc. Be sure with all your data that it is disaggregated between males and females.



Document Review Instructions

Next, have the teams look at each of these documents and ask the following questions:

1. Having just discussed the “Six Gender-Responsive Principles.” Do all of your documents reflect this current information and cover the key elements?
2. Where are the gaps? What are the specific areas that need to be changed or examined?
3. What is the process for making the changes? (Discuss and write down responsible parties, tasks, oversight/review, timelines)
4. Add this information to your action plan.

-----END OF DAY 2-----

DAY 3

Preparation for Day 3

- At least 1 prize (e.g., candy bars) for history trivia question
- PowerPoint® program and equipment



Day 3 Title Slide

Welcome to Day 3

8:00 – 8:05 Welcome and answer questions.



Trivia Question

- *What were some prison rules for justice-involved women in effect in 1920 at the Shakopee Reformatory for Women in Minnesota?*

Answer:

- *Do not roll up your sleeves*
- *Do not roll down your stockings*
- *Write one letter home per week*
- *Eat everything on your plate*
- *Be silent at all times except at meals*



Module 4 Title Slide



Work on Action Plans



Work on Action Plans

8:05 – 8:30 Work in teams to work on their action plans and presentation.

8:30 – 10:00

Module 4: Presenting Your Agency-wide Gender-informed Action Plans (1/2 the presentations)



Activity J: Team Presentations

- **Team Presentations.** Each team will have approximately 10 minutes to present their gender-informed action plans to the large group. Instructors will keep track of the time to keep us on schedule. Be sure they discuss how their current data, policies, and other materials helped guide their action steps. Then for five minutes the instructor/coaches and other trainees will have an opportunity to ask questions, comment, provide insight, ideas and a helpful critique of each plan. Encourage audience to offer feedback.

- *The presentation is an opportunity to ‘practice’ in front of a group of your peers what you would like to achieve to improve management of this population, but to receive support and yes, perhaps hear about some potential barriers in your action steps that may have been experienced by other participants.*



10:00 – 10:15 BREAK

- Approximately 10:00am or when half the groups have presented, take a break. During the break, make copies of all the Action Plans and give copies to the assigned coaches for their review and reference.

10:15 – 11:45 (continued)
Module 4: Presenting Your Agency-wide Gender-informed Action Plans (1/2 the presentations)

Team presentations continued.

Conclude presentations around 11:45 to allow time for the wrap-up and questions.

11:45 – 12:00 Wrap up



Wrap-up

- Remind trainees that sometime within the next two weeks, they will receive a class evaluation electronically from NIC. Please complete it promptly and electronically send it back. Discuss next steps regarding coaching. Answer any questions.



Resources

- Remind trainees of the available resources through the National Resource Center on Justice-Involved Women, PREA Resource Center, NIC, etc.



Closing Slide

- Closing slide with NIC contact information.

PHASE 3

Goal of Phase 3:

For teams to hit the ground running and begin to roll-out and implement their action plans.

Role of the Coach:

The role of the coach is to support the teams, direct them to resources and hold them accountable for the goals they have set out for themselves.

At the on-site training in Phase 2, assigned coaches worked with the teams in person during in-class activities and while working on the team action plans. It was important in Phase 2 for coaches to be active with your teams, sit with them during small group activities, listen, share your expertise, and facilitate the team in brainstorming. The coaches helped them from getting “stuck” in their thinking and actions. The reviewed their action plans and gave feedback.

It is important for each coach to have a copy of the team’s action plans before they leave the Phase 2 (on-site) training. In fact, it is suggested for the coaches to spend time in Phase 2 with the teams to go over their final action plan and think about how the coach can best assist in the supportive role for the team in Phase 2 and 3. The coaches may also want copies of some of the things the teams brought with them to the Phase 2 training (that list is on page 19-20 of this curriculum).

Now, in Phase 3, coaches will initiate (at minimum) monthly follow-up calls or contacts such as through emails, conference calls, virtual meetings, or Skype with their assigned teams. These calls are to provide resources and guidance as needed to help the teams

move towards accomplishing their action plans. The number of coaching hours is based on the budget available. Generally, coaching goes on for four to six months.

The coach should make their first contact with their assigned team within two weeks of the Phase 2 (on-site) training to review the action plan goals, timelines, contract (see below) and next steps. Each coach will have approximately four - five hours for each team to use for their coaching.

Coaching Contract:

It is suggested to have a coaching “contract” with each site. The contract should include such things as a timeline for tasks and activities, how contact will be made and with whom, etc. All team members should be present during the contract discussion. This can be done at the on-site training or during the first call in Phase 3. The contract clarifies roles and responsibilities of all parties and helps ensure commitment to the process. Each coach can individualize the contract to best fit the teams and their situations. Sometimes a “checklist” of contact times/meetings can be helpful.

The most common challenge that arises during the coaching phase is around communication. Often teams get busy when they return to their workplaces and they fail to promptly return the coach’s phone calls or emails. This should be addressed early between the coach and the team. Trainee teams must make a commitment to all three phases of this training for it to be successful. Coaches need to report back to NIC about the teams’ status and progress. This may be done verbally or in a simple report format.

The coaching budget is limited. If teams wish to have more assistance with their action plans or other related areas with justice-involved women issues, they can apply to NIC for technical assistance.

Coaching Formats:

Coaching can be done in various formats: conference calls, SKYPE, webinars, in-person meetings, etc. If the coach wishes to use a webinar/Web-ex format, NIC can assist you in that effort.

Appendix

National Resource Center on Justice Involved Women



Gender-Responsive Risk and Need Assessment and Case Management Self-Assessment Checklist

Please complete the table below as it pertains to your agency/jurisdiction in the area of implementing gender-informed risk and needs assessments and/or case management practices to gain a greater understanding of your strengths and gaps in these areas.

	Please check one:	Please explain/provide clarifying comments:
Leadership and Agency Policy		
1. Does the agency have a strategic plan for enhancing gender responsive practices, generally?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, does the plan speak to the implementation of gender responsive assessment tools and/or gender-responsive case management strategies? .
2. Are there <u>any</u> significant sources of resistance to the idea of implementing a gender-responsive risk/needs assessment or case management practices?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure	
3. Is leadership united in its support of implementing a gender-responsive risk/needs assessment or case management practices?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure	

4. Is there a director of female offender programs and services or similar leadership position?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, was there such a position in the past?
5. Is there a task force, committee, or implementation or other team devoted to gender-responsive initiatives?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure	
Staffing and Training		
6. Does the agency have an internal capability for training staff in the use of new tools, programs, and services?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
7. Have staff been trained in gender-responsive strategies, programs, and services?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure	If so, approximately how many staff have been trained?
8. Does the agency have dedicated training staff?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
9. Does the agency have a training unit or training academy?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
10. Have staff been trained to match offenders to services on the basis of assessments?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure	
11. Do staff in the agency support the goals of treatment and rehabilitation?	<input type="checkbox"/> Always <input type="checkbox"/> Usually <input type="checkbox"/> Sometimes <input type="checkbox"/> Never	
12. Among treatment staff, is there general recognition that women need services and programs that are different from those received by men?	<input type="checkbox"/> Always <input type="checkbox"/> Usually <input type="checkbox"/> Sometimes <input type="checkbox"/> Never	
Assessment		
13. Does the agency currently use a dynamic risk/needs assessment instrument for offenders (e.g., gender-neutral tool such as LSI-R, COMPAS, etc.)?	<input type="checkbox"/> Always <input type="checkbox"/> Usually <input type="checkbox"/> Sometimes <input type="checkbox"/> Never	If so, what tool(s) is used?
14. Does the agency use a specialized gender-responsive assessment tool specifically for women?	<input type="checkbox"/> Always <input type="checkbox"/> Usually <input type="checkbox"/> Sometimes <input type="checkbox"/> Never	If so, what gender-responsive tool(s) is used? N/A
15. Does the agency have a defined purpose for using a women's risk need	<input type="checkbox"/> Always <input type="checkbox"/> Usually	

assessment?	<input type="checkbox"/> Sometimes <input type="checkbox"/> Never	
16. Does the agency have the capacity to automate the assessment or the ability to contract with an entity that can?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Programs and Services		
17. Does the agency's programs and services target needs that are related to future offending?	<input type="checkbox"/> Always <input type="checkbox"/> Usually <input type="checkbox"/> Sometimes <input type="checkbox"/> Never	If so, what needs are commonly targeted?
18. Are cognitive behavioral programs delivered to offenders?	<input type="checkbox"/> Always <input type="checkbox"/> Usually <input type="checkbox"/> Sometimes <input type="checkbox"/> Never	If so, please list the names of the programs
19. Are women's mental health and substance abuse needs met?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure	Please indicate whether these needs are met through internal programs or contracts with service providers.
20. Does the agency have networks/partners to provide women services in the community?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Please list relevant partnerships:
Case Management		
21. Are there gender-responsive programs and services available to target gender-responsive needs identified by the assessment?	<input type="checkbox"/> Always <input type="checkbox"/> Usually <input type="checkbox"/> Sometimes <input type="checkbox"/> Never	
22. Are there case managers trained in the planning of services for women?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	If no, are there plans to have them in the future?
23. Does the agency offer follow-up or aftercare services for women in institutional settings?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
24. Are there specialized gender specific caseloads in place?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Pregnancy and Child Related Legal and Policy Issues Concerning Female Offenders
Table of Contents

Introduction

The Legal Framework

Title 42 U.S.C. § 1983 Litigation
Eighth Amendment Analysis
Qualified Immunity to § 1983 Actions

1. Is it legal to restrain a pregnant woman who is about to deliver when this can endanger her or her child?

Recent Anti-Shackling Developments
Eighth Amendment Analysis Concerning Shackling
Qualified Immunity in Shackling Cases
Section 1983 Claims Against Administrators and Policymakers

2. What type of prenatal health care is a pregnant justice-involved woman entitled to?

3. Does a pregnant have a right to obtain an elective nontherapeutic abortion, and if so, must the government pay for it?

The Constitutional Right to Obtain an Abortion
Courts Apply *Turner* rather than *Casey* in Evaluating Constitutionality
Abortion as a Serious Medical Need for Eighth Amendment Analysis
Restrictions on Funding the Cost of Abortion, Transportation, and Security

4. Women's prisons are often located far from home, depriving them of the opportunity to meet with their families as often as men. Is this a basis for a constitutional challenge?

5. Are jails and prisons required to provide visitation?

Visiting: The Constitutional Context
Policy Based Visiting Restrictions Under *Turner's* Discretionary Standard

6. Do harsh sentencing policies combined with statutes terminating parental rights of incarcerated women violate Due Process or the Eighth Amendment ban on cruel and unusual punishment?

The Impact of ASFA and Statutes Terminating Parental Rights
Focusing on the Impact to Children of Incarcerated Parents
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Conclusion

Introduction

This bulletin is intended to give an overview of pregnancy and child related legal questions that can be raised in correctional settings. It updates and expands the Legal Appendix written by Professor Myrna Raeder that is included in Barbara Bloom *et al.*, *Gender-Responsive Strategies: Research, Practice and Guiding Principles for Justice-involved women*, published by National Institute of Corrections in 2003.¹ The information presented here is expected to be pertinent to a wide audience only some of whom have legal training. Commissioners of Correctional Departments and their legal staff, wardens, sheriffs, other administrators of prison and jails, community correctional officials and service providers, as well as stakeholders who include advocates for justice-involved women should all be able to reference this bulletin as a starting point for analyzing family issues that impact a large percentage of female justice-involved women, and a variety of resources, legal and otherwise, are included to help further research about these issues. Administrators and policymakers may find it useful to review their policies in light of the following pregnancy and child-related legal questions and answers, with the caveat that their responses must be dictated in part by specific laws and policies that exist in the particular jurisdiction where their facility or community corrections program is located, as well as by the specific factual circumstances in which an issue arises.

Approximately 200,000 women are currently incarcerated in the United States, with nearly half confined in jails. Surveys of incarcerated females typically report that about 5% are pregnant when they enter local jails and state prisons, with a slightly lower percentage reported for pregnant federal prisoners. While there is not a precise count of how many children are born to incarcerated women each year, it is not uncommon to hear estimates of several thousand births. In particular, legal issues concerning prenatal care, the shackling of pregnant women in childbirth, and restricted access to elective nontherapeutic abortions have received media attention and generated litigation.

Beyond the legal questions raised by pregnancy, because the vast majority of female offenders are mothers of minor children, their behavior during incarceration can be dramatically affected by concerns about their children as well as by the nature of their relationships with their children. Correctional officials have control over some child-related issues relating to visiting and providing programs that satisfy reunification plans, which may be key to motivating women to actively engage in rehabilitative efforts. In contrast, other child-related issues, such as termination of parental rights or placement of women in facilities close to their homes, may be outside of an administrator's control. Yet, maintaining relationships can be particularly difficult when women are housed at great distances from their families, and worrying about losing their parental rights can have detrimental effects on the mental outlooks of incarcerated mothers.

The Bangkok Rules for Treatment of Women Prisoners, recently adopted by consensus by the United Nations General Assembly have a number of provisions concerning pregnancy and children. They include considering the possibility of a reasonable suspension of a mother's detention, taking into account the best interests of her children; favoring non-custodial sentences for pregnant women and women with

dependent children where possible and appropriate; and viewing caretaking responsibilities favorably for purposes of granting early parole.ⁱⁱ While the Rules are not directly enforceable in the United States, it is expected that because they reflect a world consensus concerning treatment of women prisoners and their children that any practices or policies in the United States which are in conflict with them will be challenged on the grounds that they violate the human rights of female inmates. Even before the adoption of the Bangkok Rules such claims have been raised in relation to women who are shackled during childbirth.ⁱⁱⁱ Similarly, these rules are likely to be cited as support for policy based arguments that severe sentences for mothers of minor children who commit nonviolent crimes are out of sync with correctional policies in the rest of the world that attempt to mitigate the adverse impact of imprisonment on children by recognizing in their sentencing alternatives that justice-involved women are typically the sole or primary caretakers of their children.

Understanding how family-based legal issues impact justice-involved women is important in designing programs to ensure the best outcomes for women and their children, not just in a jail or prison setting but also in probation, parole, and community correctional settings. For example, establishing a prison nursery is one possible response by correctional officials when women are not eligible to reside with their infant in a community-based facility. Although [prison nurseries](#) were once common, today less than 10 states operate such nurseries.^{iv} A recent evaluation of the Bedford Hills prison nursery funded by the National Institutes of Health has confirmed that children can become securely attached in a prison setting and assist reunification efforts when the female offender is released.^v

Keeping mothers and infants together is also important to a child's development, since bonding is essential for children to be able to form attachments later in life. Therefore, it is important for correctional officials to encourage bonding in prison or community correctional facilities. For example, the Bureau of Prisons operates a program entitled Mothers and Infants Together (MINT) which permits eligible women to reside in a community correction setting with their infants for up to 18 months after delivery. California has operated a Community Prison Mother Program, where eligible justice-involved women with less than six years remaining on their sentences may reside with their children in a residential facility where they receive comprehensive programming to enable them to better reintegrate into their communities. Other states also operate residential programs for incarcerated mothers and their young children.^{vi}

Practically, the type and extent of community services available to mothers, particularly those with young children, may affect their ability to meet conditions of release. Preparation in prison is key to the ability of justice-involved women to deal with their family responsibilities in a way that ensures the best chance of their success in the community. The current focus on the importance of reentry in reducing recidivism and the positive role that families play suggests greater awareness by correctional agencies and jails about the desirability of family friendly policies, and outreach to community and faith based groups that can provide valuable reentry resources.^{vii}

The Legal Framework

Before addressing pregnancy and child related questions, the following brief overview of the Eighth Amendment and Section 1983 litigation is presented to facilitate a better understanding of the legal context in which most of these questions arise. Where applicable, the answer to each question includes a more detailed analysis directed to the specific legal challenge.

Title 42 U.S.C. § 1983 Litigation

Most suits challenging pregnancy and child related issues will be based on 42 U.S.C. § 1983, although on occasion state tort law may provide a remedy. Section 1983 claims require an allegation of a violation of the U.S. Constitution. States and state agencies are not “persons” who can be sued under § 1983, and also enjoy sovereign immunity under the Eleventh Amendment. Similarly, state officials cannot be sued in their official capacity for monetary damages which must be paid from public funds in the state treasury,^{viii} but they can be sued in their individual capacity. Practically, injunctive relief can be sought against state officials in their official capacity under § 1983 to obtain future compliance with constitutional standards. In contrast, municipalities, are “persons” suable under § 1983, including counties, cities, unincorporated localities, and other local governmental units, as well as local officials sued in their official capacities.^{ix} Section 1983 claims are typically predicated on violations of the Fourteenth Amendment which applies the Eighth Amendment ban on cruel and unusual punishment and the Fifth Amendment right to Due Process to the states. Because claims cannot be brought against the federal government under § 1983, suits are brought directly under the Eighth and Fifth Amendments and are called *Bivens* actions. Women who are detained in local jails but not convicted bring their claims under the Due Process rationale of the Fourteenth Amendment pursuant to § 1983 since they cannot be punished under the Eighth Amendment. Most courts treat the difference in status (detained or convicted) as not affecting the Eighth Amendment analysis.^x

To obtain municipal liability, an official policy or custom must be alleged that deprives a person of a federally protected right. Failure to adequately train or supervise can be actionable if the policy was adopted with deliberate indifference to the known or obvious possibility it would result in cruel and unusual punishment. A municipality must also have actual or constructive knowledge of the inappropriate practice before liability can be imposed against it.^{xi}

Eighth Amendment Analysis (Applied to the States by the Fourteenth Amendment)

Demonstrating an Eighth Amendment violation requires both an objective and a subjective component.^{xii}

An injury is objectively and sufficiently serious, denying “the minimal civilized measure of life’s necessities” if it—

- results in the “unnecessary and wanton infliction of pain,”
- is “grossly disproportionate to the severity of the crime warranting imprisonment,” or
- results in an “unquestioned and serious deprivation of basic human needs.”

An official has a sufficiently culpable state of mind demonstrating deliberate indifference when—

- the official knew of and disregarded an excessive risk to justice-involved women safety or health,
- the official was aware of facts from which an inference could be drawn that a substantial risk of harm existed, and
- the official actually drew the inference.

It is not sufficient that the injury was grave enough that the official should have known of the risk, if that individual did not subjectively know of the risk. For example, when an justice-involved women did not tell the guards she was offended and harassed by their verbal abuse, they did not have the requisite culpable state of mind.^{xiii} *Helling v. McKinney*, refined the distinct objective and subjective components for an Eighth Amendment claim, indicating that the objective prong “requires a court to assess whether society considers the risk that the prisoner complains of to be so grave that it violates contemporary standards of decency to expose anyone unwilling to such a risk. In other words, the prisoner must show that the risk of which he complains is not one that today's society chooses to tolerate.”^{xiv}

Whether a correctional supervisor can be found liable for an Eighth Amendment violation under § 1983 is subject to a different analysis than that used for the officers who are allegedly responsible for the claimed constitutional violation. In the absence of direct involvement by the administrator, in order to establish failure to ensure that proper policies and customs were implemented with respect to the right in question, an official “is only liable for his ... own misconduct” and is not “accountable for the misdeeds of [his] agents” under a theory such as *respondeat superior* or supervisor liability.^{xv} However, direct involvement can also result from a supervisor’s failure to act.^{xvi}

Qualified Immunity to § 1983 Actions

Qualified immunity to § 1983 Civil Right actions was created to shield government officials from civil liability for the performance of discretionary functions as long as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have knowledge.^{xvii} It is available as a defense to public officials sued in their individual capacity for damages, unless the official has acted with an impermissible motivation or with such disregard of the person’s clearly established constitutional rights that the action cannot be reasonably characterized as having been in good faith. If a reasonably competent official knew or should have known that conduct was unlawful, immunity does not exist. It is important to recognize that qualified immunity is unavailable to local governmental entities under § 1983, which means that

municipalities may not assert the good faith of its officers as a defense to such liability.^{xviii} However, as previously mentioned, municipalities may not be found liable for the acts or omissions of employees unless they are based on official policy or practice. Thus, in some instances, a local entity may be liable, but its employee is shielded by qualified immunity. Conversely, a state may not be liable for money damages, but its employee sued in individual capacity may on occasion not meet the criteria for qualified immunity.

Since the immunity is from suit rather than a mere defense to liability, denial of qualified immunity is immediately appealable to the extent that it turns on an issue of law.^{xix} If the decision is not immediately appealable because of the presence of a disputed factual issue, *Ortiz v. Jordan*, recently held the only way for the defendant to challenge the denial of summary judgment after trial is to raise the sufficiency of the evidence issue by a post verdict motion for judgment as a matter of law under Federal Rule of Civil Procedure 50(b).^{xx} Although *Gomez v. Toledo* treats qualified immunity as an affirmative defense,^{xxi} once the defendant pleads qualified immunity, the majority of circuits hold that the burden then shifts to the plaintiff to show that the right allegedly violated was clearly established at the time of the challenged conduct. Judges will typically determine if there has been a violation of a constitutional right before determining if the right was clearly established at the time.^{xxii} However, this two step process is discretionary.^{xxiii}

Richardson v. McKnight clarified that prison guards who are employees of a private prison management firm are not entitled to qualified immunity from suit by prisoners charging a violation of § 1983.^{xxiv} The Court left open whether a defense of good faith was available to private guards. In *Correctional Services Corp. v. Malesko*, the Court held there was no implied private right of action pursuant to *Bivens* for damages against private entities that engaged in alleged constitutional deprivations while acting under color of federal law.^{xxv} More recently, *Minneeci v. Pollard* held that federal prisoners could not assert an Eighth Amendment *Bivens* claim for damages against private prison employees, but must rely on state tort law.^{xxvi}

1. Is it legal to restrain a pregnant woman who is about to deliver when this can endanger her or her child? Whether or not a constitutional violation can be established, or is subject to a defense of qualified immunity, the use of such restraints in the absence of any security or flight risk is questionable viewed from a humanitarian, public relations, or litigation perspective.

Recent Anti-Shackling Developments

Restraints on pregnant women have been the subject of worldwide attention for a number of years, but recently the American medical and legal communities have joined humanitarian groups in opposing this practice. The American Bar Association (ABA), the American College of Obstetricians and Gynecologists (ACOG), the American College of Nurse Midwives, the American Public Health Association, the National Commission on Correctional Health Care, the Association of Women's Health, Obstetric and Neonatal Nurses, and the American Medical Association (AMA) have now

condemned shackling women during childbirth, adding their voices to earlier protests against such practices by Amnesty International, Human Rights Watch, the American Civil Liberties Union (ACLU) and the United Nations Special Rapporteur on Violence Against Women. Moreover, the United Nations Bangkok Rule 24 adopted in December, 2010 categorically states that “instruments of restraint shall never be used on women during labour, during birth and immediately after birth.”^{xxvii} The AMA has used terms such as “barbaric” and “dangerous” to describe the practice. Advocacy groups have [recommended legislation](#), regulation, policies, and practices to reflect a commitment to protect justice-involved women not only against use of restraints in childbirth, but also in the third trimester during transportation, and during post-partum recovery.^{xxviii}

While a majority of jurisdictions still do not have specific legislation regulating shackling during childbirth, the Bureau of Prisons, U.S. Marshals and approximately 21 states prohibit shackling during labor and delivery except when a substantial or compelling showing can be demonstrated that the woman is a security or flight risk.^{xxix} This is a dramatic shift from ten years ago when few explicit restrictions existed. While less than 10 states have yet enacted statutes, relying instead on policy, anti-shackling legislation has recently been introduced in at least 10 states, and after a failed attempt to enact legislation in Virginia, the Department of Corrections agreed to introduce policy to the same effect. Some states explicitly extend this ban to hospital transport and recovery, and a few states are considering strengthening their existing law.

Given this history, it is not surprising that statutes and regulations vary significantly, and are often unclear both as to the nature of the restraints prohibited (belly chains, chains over the shoulder, leg irons, and/or handcuffs), whether the prohibition includes transport, labor and post-partum recovery as well as delivery, to whom the showing of need for restraints is made and the type of documentation needed to obtain an exception. Therefore, it is not uncommon to find violations being alleged even when such laws or regulations exist. While relatively few suits have been brought, this is likely to change given the recent policy shift. General limitations on prisoner suits found in the Prison Litigation Reform Act, such as exhaustion of remedies,^{xxx} apply only to current prisoners, not once a justice-involved woman is released, which is typically before the statute of limitations has run for jailed s.^{xxxi} In addition, some failures to exhaust remedies by incarcerated women may be excused. For example, *Goebert v. Lee County*, reversed a summary judgment and excused the failure by a detainee to pursue an administrative appeal concerning her allegations of inadequate prenatal medical care, where the initial response to her complaint was incorrect, delivered after her infant was stillborn, and plaintiff was never advised of any grievance system.^{xxxii}

Practically, anti-shackling advocates dispute that a woman in labor ever poses a serious enough risk to justify body restraints during childbirth, particularly given that a correctional officer is typically posted nearby. Physicians also question whether a woman is able to be aggressive or a flight risk during labor and the 48 hours after childbirth. To date, there have been no publicized instances of escape attempts by women in labor. The fact that a large percentage of pregnant justice-involved women have committed nonviolent crimes also suggests that generalized policies permitting

restraints may be more a reflection of a correctional culture that still tends to focus on male prisoners than a conscious choice about the necessity of shackling women who are physically unlikely to pose the risks that would justify such policies. Conversely, the risks posed by restraints to the mother and unborn child during transport, labor, delivery, and recovery have been described as including both emotional distress and physical pain.

The ACOG has argued that shackling during labor “may not only compromise her health care but is demeaning and unnecessary,” noting that women described “the inability to move to allay the pains of labor, the bruising caused by chain belts across the abdomen, and the deeply felt loss of dignity.”^{xxxiii} The ability to move in labor has also been identified as a factor in avoiding venocaval occlusion, hypertension, and fetal compromise. Physicians indicate that restraints may also hinder them in reacting to emergencies, which in some cases may delay a necessary caesarean delivery. Similarly, leg shackles may cause women severe pain from cramping during labor, to trip or fall while walking, and to soil themselves before the restraints can be removed to allow them to use the bathroom.

In 2010, the AMA adopted a [resolution](#) definitively rejecting any type of routine shackling, squarely treating it as a medical issue:

No restraints of any kind shall be used on a justice-involved woman who is in labor, delivering her baby or recuperating from the delivery unless there are compelling grounds to believe that she presents:

- An immediate and serious threat of harm to herself, staff or others; or - A substantial flight risk and cannot be reasonably contained by other means.

If an justice-involved woman who is in labor or who is delivering her baby is restrained, only the least restrictive restraints necessary to ensure safety and security shall be used.^{xxxiv}

Similarly, in 2010 the ABA adopted Standards for Treatment of Prisoners that includes the following language in 23-6.9 about shackling of pregnant prisoners and new mothers:

(a) Any restraints used on a pregnant prisoner or one who has recently delivered a baby should be medically appropriate; correctional authorities should consult with health care staff to ensure that restraints do not compromise the pregnancy or the prisoner’s health.

(b) A prisoner in labor should be taken to an appropriate medical facility without delay. A prisoner should not be restrained while she is in labor, including during transport, except in extraordinary circumstances after an individualized finding that security requires restraint, in which event correctional and health care staff should cooperate to use the least

restrictive restraints necessary for security, which should not interfere with the prisoner's labor.

A 2011 ACOG District IX press release in favor of extending California's statute to transport states "Physical restraints have interfered with the ability of physicians to safely practice medicine by reducing their ability to assess and evaluate the physical condition of the mother and the fetus; thus, overall putting the health and lives of the women and unborn children at risk."^{xxxv} In addition, an ACOG District IX [fact sheet](#) explains that nearly two thirds of California jails permit shackling in ways that can cause miscarriage or other injury, and that given many incarcerated women have high risk pregnancies, shackling during transport can result in trauma that is associated with an increased risk of spontaneous abortion, pre-term labor, placental abruption, fetomaternal transfusion, and still birth.^{xxxvi}

The Eighth Amendment Analysis Concerning Shackling

The opposition of the medical, legal and international communities to routine shackling during childbirth establishes that it is better policy to limit restraints to extreme cases in which a record can be established justifying the practice. This view also reflects the safer course for correctional administrators to avoid litigation. Lawsuits can be expected to have more likelihood of surviving summary judgment and success at trial by women who allege they or their children were injured from the practice in light of the current anti-shackling trend.

As mentioned in the legal framework overview, to establish §1983 liability, justice-involved women must demonstrate cruel and unusual punishment in violation of the Eighth Amendment, which requires a prison official to be deliberately indifferent by knowing of and disregarding a serious medical need or a substantial risk to an justice-involved women's health or safety.^{xxxvii} Plaintiffs have also alleged shackling constitutes a violation of international standards in arguing an Eighth Amendment claim.^{xxxviii}

In evaluating the validity of Eighth Amendment claims, courts rely on the framework established in *Estelle v. Gamble*, to decide whether the right to adequate medical care was violated:

[D]eliberate indifference to serious medical needs of prisoners constitutes the "unnecessary and wanton infliction of pain" proscribed by the Eighth Amendment. This is true whether the indifference is manifested by prison doctors in their response to the prisoner's needs or by prison guards in intentionally denying or delaying access to medical care or intentionally interfering with the treatment once prescribed. Regardless of how evidenced, deliberate indifference to a prisoner's serious illness or injury states a cause of action under § 1983.^{xxxix}

Estelle indicated it would be a violation for guards "intentionally denying or delaying access to medical care or intentionally interfering with the treatment

once prescribed.”^{xl} In the medical context a serious medical need is one that “is sure or very likely to cause serious illness and needless suffering.”^{xli} Moreover, *Farmer v. Brennan* explained that “a factfinder may conclude that a prison official knew of a substantial risk from the very fact that the risk was obvious.”^{xlii} This has been interpreted by lower courts as including a condition “that is so obvious that even a lay person would easily recognize the necessity for a doctor’s attention.”^{xliii} In order to meet the subjective element, the conduct that disregards the medical need must exceed gross negligence.^{xliv} In other words, negligence or medical practice will not state an Eighth Amendment claim.

The Supreme Court has not been faced with a case involving shackling of a pregnant justice-involved women. However, *Hope v. Pelzer* held that shackling violated the Eighth Amendment in the context of an justice-involved women being handcuffed to a prison hitching post for seven hours in dire conditions, without any clear emergency, and in a manner “that created a risk of particular discomfort and humiliation.”^{xlv} In 2009, relying in part on *Hope*, a federal circuit squarely court held in *Nelson v. Correctional Medical Services* that shackling during childbirth was unconstitutional.^{xlvi} *Nelson* also relied on *Women Prisoners of D.C. Dep’t of Corr. v. District of Columbia*, which had held that “[w]hile a woman is in labor ... shackling is inhumane” and violates her constitutional rights.^{xlvii} In the *Women Prisoners*’ appeal, the D.C. Circuit confirmed that the trial judge had found the use of physical restraints on pregnant women violated the Eighth Amendment, a finding that was not challenged by the defendant on appeal. The trial court’s order in *Women Prisoners* specifically provided that:

- Defendants shall use no restraints on any woman in labor, during delivery, or in recovery immediately after delivery.
- During the last trimester of pregnancy up until labor, the defendants shall use only leg shackles when transporting a pregnant woman prisoner, unless the woman has demonstrated a history of assaultive behavior or has escaped from a correctional facility.^{xlviii}

The specific nature of the restraints in an individual case is likely to affect the outcome of the litigation. For example, employing belly and/or leg shackles without a compelling need is problematic. Yet in a particular case a court might find that handcuffs do not rise to the level of an Eighth Amendment violation even without an appropriate showing, while in another instance handcuffing could lead to a prisoner falling, and causing injury to herself or unborn child. In dismissing a claim of a woman who alleged she had been shackled while five months pregnant during transport and for three days in a hospital, the district court indicated in *Hale v. Adams County Jail* that “[t]he mere fact that she was shackled during this time period, without more, is not a violation of her constitutional rights.”^{xlix} In other words, while the woman claimed her child was born with permanent brain damage, the birth took place several weeks later, and it appeared the plaintiff did not separately claim mental anguish or other consequences of the shackling. However, a claim of excessive force was stated against the officer who allegedly “slammed” her in the stomach while pregnant causing her to leak amniotic fluid. Injunctive relief may be available to derail unconstitutional policies even when a damage

claim cannot be established. In both contexts there will undoubtedly be questions about whether transport and post delivery shackling rise to the level of an Eighth Amendment violation by themselves, as the cases are very fact specific.

Qualified Immunity in Shackling Cases

Establishing an Eighth Amendment violation does not by itself determine liability if the claim is subject to a qualified immunity defense. As previously mentioned, the defense is available to public officials sued in their individual capacity, unless the official has acted with an impermissible motivation or with such disregard of the person's clearly established constitutional rights that the action cannot be reasonably characterized as having been in good faith. Thus, the question of when the constitutional right against shackling in childbirth was established can be key. For example, *Hope* denied a claim of qualified immunity in light of precedent in the circuit in which the claim arose, meaning that determining when a right is clearly established may differ by location and depends on the existence of notice. *Nelson* held that the risks involved in shackling a pregnant justice-involved women in labor and childbirth were obvious and had been "clearly established by decisions of the Supreme Court and the lower federal courts before September 2003," thereby rejecting the defendants' qualified immunity claims.ⁱ Although not bound by *Nelson*'s holding, *Brawley v. Washington* relied on *Nelson*'s reasoning to deny a qualified immunity claim based on restraints applied in 2007.ⁱⁱ Similarly, in other cases not governed by *Nelson*, the opposition by the ACOG, AMA and other organizations of health care providers to shackling in childbirth treating restraints as a medical issue cautions that any prospective shackling without adequate cause will more likely be considered an Eighth Amendment violation which was obvious to officers.

Because jails are typically operated by municipalities they cannot claim qualified immunity.ⁱⁱⁱ As a result, for most jails the question will simply be whether the constitutional right was violated because of a policy, practice, or custom in place, not whether it was clearly established at the time of the violation. As a result, jails should be vigilant in reviewing their shackling policies, and provide training concerning their application. The success of jail employees in asserting qualified immunity when sued individually for shackling is subject to showing good faith and the right not being clearly established at the time of the violation.

This discussion suggests that even without specific limitations on shackling in a jurisdiction, prison and jail administrators should question their necessity in individual cases, since most pregnant women, particularly those nearing labor, are not flight risks. For example, the shift in public opinion and legal theory supporting liability is evident in the August, 2011 \$200,000 award by federal jury in Tennessee to Juana Villegas for the suffering she endured when Sheriff's deputies shackled her to a delivery bed. The plaintiff was detained for not having a driving license, but was not initially released because of her status as an illegal immigrant. Although she was later released, she was in jail when she went into labor. The Sheriff's Office later changed its shackling policy in response to the bad publicity generated by the case, but claimed the policy was accepted practice in 2008 when the shackling occurred. The federal district court denied

the defendant's summary judgment motion and granted plaintiff's motion for partial summary judgment on her Fourteenth Amendment claim based on the defendants' shackling her during her active final stages of labor and subsequent postpartum recovery in *Villegas*.^{liii}

At trial a psychiatrist testified that Villegas suffers from post-traumatic stress disorder, major depressive disorder and phobia as a result of the shackling and will need years of therapy. The defendant has indicated that the judgment will be appealed. It should be noted that not all awards are as generous. The plaintiff in *Nelson* ultimately went to trial in 2010 against the remaining defendant in the case who was the female officer who shackled her, and was only awarded compensatory damages of \$1.00.^{liv} Even so, for correctional agencies the common themes in both cases are that the shacklings were unnecessary, the legal claims could have been avoided without impairing security or risking physical or psychological suffering by the plaintiffs, and the use of restraints resulted in lengthy and costly litigation.

Section 1983 Claims Against Administrators and Policymakers

As previously mentioned, administrators and policymakers are only held responsible for their own misconduct. Thus, in *Nelson*, while an Eighth Amendment violation was established against the nurse who restrained the justice-involved women, summary judgment was affirmed in favor of the Director of the Department of Correction.^{lv}

Failure to adequately train or supervise can, however, be actionable if the policy was adopted with deliberate indifference to the known or obvious possibility of a serious medical risk or in violation of the Fourteenth Amendment right to be free from bodily restraint. For example, in *Zaborowski v. Sheriff of Cook County* the court refused to grant a motion to dismiss brought by the Sheriff of Cook County, Illinois in a suit alleging he violated the plaintiffs' constitutional rights based on his policy of shackling female pre-trial detainees at the Cook County Department of Corrections before, during, and immediately after they give birth.^{lvi} The complaint alleged that the Sheriff:

has at all times been personally involved in the formulation and implementation of policies at the Cook County Jail;

has permitted the continuation of the official shackling policy that requires correctional officers to shackle pregnant woman in the custody of the Sheriff of Cook County before, during, and immediately after labor and delivery

implements a barbaric practice that needlessly inflicts excruciating pain and humiliation

enforced the shackling policy in willful and wanton disregard of the laws of the State of Illinois; and

notwithstanding his actual knowledge of this unlawful and unconstitutional policy. . . waited more than one year to take remedial action concerning the shackling policy.

The court held “these allegations sufficiently allege” the Sheriff “personally participated in or was involved in the implementation or administration of the shackling policy.” The court ultimately granted the sheriff’s summary judgment motion concerning the claim brought against him in his individual capacity, but denied summary judgment on the claim that policymakers were aware of a widespread practice of shackling pregnant detainees.^{lvii} In denying summary judgment the court relied on Fourth Amendment cases, rather than applying the deferential review to prison regulations accorded by *Turner v. Safley*.^{lviii} Recently, preliminary approval by the court has been given to settle this class action for \$4.1 million, or approximately \$35,000 for each class member, as well as prohibition of shackling in the absence of evidence of a flight or security risk.

Generally, training correctional personnel about revisions to policies and laws on restraints is extremely important, as is providing a procedure which correctional employees from follow in order to obtain permission to employ restraints. A synthesis of the medical and legal literature, as well as the case-law suggests that any default rule should incorporate the positions of the AMA and ABA which would prohibit the use of restraints for pregnant justice-involved women during transport to delivery, during labor and childbirth, and during the immediate recovery from childbirth. Any exception to this policy should require prior written approval based on a documented showing that the specific justice-involved women presents a compelling security or flight risk, and should be given only in exceptional circumstances in light of the general medical evidence to the contrary. To the extent that the use of restraints is approved, it should be the least restrictive in light of the documented risk and employed in a way that does not compromise the justice-involved women’s pregnancy or health. Policies concerning the use of restraints during the third trimester should also be reviewed in light of medical and humanitarian concerns about such practices.

2. What type of prenatal health care is a pregnant justice-involved women entitled to? The legal obligation of providing health care, whether concerning pregnancy or generally is governed by the Eighth Amendment when § 1983 claims are brought. If tort claims are brought under state law, they will be subject to any applicable limitations of liability in State Tort Claim Acts.

Maternal health care issues are only a part of the larger picture concerning appropriate mental and physical medical care in jails and prisons. Recently, the Supreme Court’s affirmed an order requiring the California prison population to be capped at 137.5 percent of design capacity in *Brown v. Plata*, finding that crowding was the primary cause of Eighth Amendment violations relating to inadequate medical and mental health care for state’s prisoners.^{lix} The National Commission on Correctional Health Care has a [longstanding comprehensive position](#) on *Women’s Health Care in Correctional Settings*.^{lx} A review of the entire range of correctional mental health issues can be found in the *Practical Guide to Correctional Mental Health and the Law*.^{lxi} Generally, women often have [more medical requests than men](#), and the mental health issues for women can be significant not only in prison, but in jail.^{lxii} On occasion, such issues will be raised in the context of sexual assaults in prison, which implicate [the rules](#) promulgated pursuant to the Prison Rape Elimination Act (PREA).^{lxiii}

Allegations of inadequate prenatal care may be brought in §1983 actions based on Eighth Amendment claims relating to miscarriages or stillborn births. ABA Standard 23-6.9(a) generally indicates that a pregnant prisoner should receive necessary prenatal and postpartum care and treatment, including an adequate diet, clothing, appropriate accommodations relating to bed assignment and housing area temperature, and childbirth and infant care education. Bangkok Rule 14 provides that in developing responses to HIV/AIDS in penal institutions, programs and services shall be responsive to the specific needs of women, including prevention of mother-to-child transmission. A recent article, *Perinatal Care for Incarcerated Patients*, raises several important considerations concerning pregnant justice-involved women.^{lxiv} It discusses minimum standards for pregnancy adopted by the Federal Bureau of Prisons, the National Commission on Correctional Health Care, the American Public Health Association and the American Congress of Obstetricians and Gynecologists. Further, thirty four states also have explicit policies governing prenatal care for justice-involved women. Ironically, given the poverty and substance abuse that are common for many of these women in the community, the article reviews studies indicating that incarceration may result in better maternal and fetal outcomes for some justice-involved women. [A response to the article](#) pointed out the high risk nature of justice-involved women pregnancies, which may include drug withdrawal increases the likelihood of miscarriage and stillbirth, making lack of adequate prenatal care more challenging.^{lxv}

Thus, it is the nature of specific care in institutions that determines if a legal claim is viable. In this regard, the *Perinatal Care* article poses questions that hospital medical personnel should ask correctional staff when triaging a pregnant woman and deciding when to discharge her, such as the availability of medical staff, alternatives when medical staff is not available, the extent of on-site services, the existence of a medical contact at the facility, how rapidly the woman can be re-hospitalized and whether she has a prenatal plan if she returns to the community. The more likely these questions are asked and the staff at the facility recognize the importance of interacting with hospital staff, the less likely women will be given such grossly negligent healthcare that reaches the level of deliberate indifference. Barbara A. Hotelling's article, *Perinatal Needs of Pregnant, Incarcerated Women*, advocates for [Lamaze educators](#) to initiate collaborations with correction officials to facilitate childbirth of justice-involved women.^{lxvi}

A [recent study](#) by the Rebecca Project for Human Rights reported that 38 states provided inadequate prenatal care.^{lxvii} Correctional officials in 15 states [voiced issues](#) with some of the information in the report.^{lxviii} Given that a number of correctional agencies considered the report important enough to respond to, it is clear that maternal health care is a controversial issue that is likely to generate litigation, both by individual claims and in class actions.^{lxix}

Goebert v. Lee County exemplifies the difference in Eighth Amendment analysis for officers and policy makers in this context.^{lxx} The Eleventh Circuit concluded that a one day delay by a jail commander to provide access to a doctor for a high risk pregnant

detainee who had been leaking amniotic fluid for 9 days could have contributed to her infant being stillborn. The defendant admitted he delayed because he did not believe the plaintiff. Therefore, *Goebert* reversed the trial court's grant of summary judgment, and then found the defendant was not entitled to qualified immunity because he had incorrectly told the plaintiff she could not receive additional medical care unless she paid for it. In contrast, the Sheriff who was sued in his official capacity had his grant of summary judgment affirmed because he had no actual knowledge that the policy prohibiting detainees to rest during the day was being implemented in a way that ignored medical needs.

Similarly, *Pool v. Sebastian County, Arkansas* held that deliberate indifference could be shown where a justice-involved woman informed prison officials that she was pregnant, bleeding and passing blood clots, and her extreme pain from the cramping affected her ability to perform routine daily functions such as eating and showering.^{lxxi} In *Doe v. Gustavus*, refusal by nurses to provide pain medication, examine the plaintiff, or assist her while she experienced labor pains and ultimately delivered her own baby while locked in a segregation cell was also sufficient to establish deliberate indifference.^{lxxii} The opinion explained there was no requirement that the plaintiff present direct evidence of the nurses' state of mind.

The fact that a pregnant justice-involved woman miscarries does not by itself establish Eighth Amendment liability. For example, *Jamison v. Nielsen* affirmed a grant of summary judgment even though the plaintiff may have been able to show that another course of treatment might have been preferable, or that the defendant was insensitive, or negligent, because the court found she did not provide facts from which a jury could conclude that the defendant intentionally disregarded an excessive risk to her health.^{lxxiii} In this context, courts vary as to whether pregnancy or shackling during pregnancy is by itself a serious medical need. However, a number of cases hold that delay of medical care to pregnant justice-involved women can violate a justice-involved woman's right to medical care.^{lxxiv}

Other pregnancy related medical claims may also arise. For example, since women have a right not to be sterilized without their consent,^{lxxv} sterilization of a justice-involved woman during childbirth may raise an Eighth Amendment claim. Villegas also survived summary judgment based her Eighth Amendment allegations of failure to provide a breast pump that was needed to prevent engorgement. ABA Standard 23-6.9(e) provides that governmental and correctional authorities should strive to meet the legitimate needs of prisoner mothers and their infants, including a prisoner's desire to breastfeed her child. Similarly, Bangkok Rule 48.2 states "women prisoners shall not be discouraged from breastfeeding their children, unless there are specific health reasons to do so." In contrast, several cases have allowed restrictions on breast feeding as inconsistent with the reality of prison life.^{lxxvi} In addition, in *Lawson v. Superior Court* allegations that a prisoner was denied a breast pump while she was incarcerated with her infant daughter did not trigger State Tort Claims Act liability for failure to take action when a prisoner is in need of immediate medical care because the court found that the deprivation did not amount to neglect of a serious and obvious medical condition.^{lxxvii}

Given relatively high recidivism rates of women entering jail, it has been suggested that providing contraceptive services at the time of release may help decrease the number of women who enter jail pregnant, and consequently decrease medical issues that occur in that setting.^{lxxviii}

The use of restraints may also factor into such state tort claims as wrongful death of an infant or inadequate medical care for a pregnant justice-involved women, as in *Calloway v. City of New Orleans*, which affirmed liability against a sheriff but reduced the award of damages.^{lxxix} Immunity from state claims may also be a consideration under tort claims acts. Any immunities under state law are determined by the specific language of the jurisdiction's state tort claims act. For example, in *Lawson* a prisoner who resided in the private correctional facility with her infant daughter sued the State, the operator of the correctional facility, and their employees, for failure to furnish medical care to the prisoner, negligence, infliction of emotional distress, false imprisonment of her daughter, and violation of § 1983. The court found Tort Claims Act immunity for injuries to prisoners did not apply to injuries to the prisoner's daughter, and that a claim of negligence against the state was properly alleged. In contrast, the private operator of the facility and its employees could not assert any governmental immunity for either the justice-involved women or her child. A number of additional articles discuss legal issues regarding pregnancy and prenatal care of justice-involved women.^{lxxx}

3. Does a pregnant justice-involved women have a right to obtain an elective nontherapeutic abortion, and, if so, must the governmental entity pay for it? Pregnant justice-involved women have a right to obtain an abortion and even when not judicially mandated, it is better policy for correctional officials not to require any type of court order before allowing a woman to obtain one, or otherwise enact policies that have the practical effect of preventing women from voluntarily terminating their pregnancies. It is unclear whether prison based preconditions such as obtaining counseling prior to abortion will be upheld. To the extent such regulations exist, they should enable justice-involved womens to receive expedited consideration, so that any failure to comply that is not attributable to the justice-involved women does not defeat the ability to obtain an abortion before viability. Statutory and judicial decisions in each jurisdiction will determine whether the pregnant justice-involved women must pay for the abortion, as well as for transportation and/or security.

The Constitutional Right to Obtain an Abortion

It is well settled that a woman has a right to obtain an abortion before viability of the fetus without undue interference from the state.^{lxxxi} A state regulation constitutes an undue burden if it "has the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus."^{lxxxii} However, policies that practically restrict a pregnant detainee or prisoner from accessing abortion services have produced mixed legal results. The Supreme Court has not directly addressed the standard to be applied in this context. In *Arpaio v. Doe* the Court denied *certiorari* to an Arizona case *Doe v. Arpaio*.^{lxxxiii} The Arizona opinion in *Arpaio* held that an unwritten

policy requiring jail justice-involved women to obtain a court order to be transported in order to obtain an abortion was unconstitutional. While the denial of *certiorari* effectively vindicated the justice-involved women's right to obtain an abortion in the specific case, it has no precedential value. As a result, state and federal courts hearing such cases are still grappling with the appropriate standard to be applied in determining the legality of any policy impeding access to abortion, and have reached inconsistent conclusions when applying the same standard in seemingly similar factual circumstances. Moreover, a recent survey found widespread differences by correctional health professionals in facilitating access to abortion for incarcerated justice-involved women.^{lxxxiv} Therefore, it is probable that more litigation will result. For a recent review of the legal literature see *Access To Elective Abortions For Female Prisoners Under The Eighth And Fourteenth Amendments*.^{lxxxv}

In addition to *Arpaio*, several courts have issued injunctions against regulations requiring court-ordered releases for justice-involved women to obtain nontherapeutic elective abortions. For example, *Monmouth County Correctional Institutional Inmates v. Lanzaro* held that a county order requiring inmates to secure court ordered releases to obtain abortion while in the county's custody was unconstitutional.^{lxxxvi} *Doe v. Barron* granted a Temporary Restraining Order to a female prisoner requesting access to pregnancy termination services after the Director of the Correctional Center refused to provide access without a court order.^{lxxxvii} Most recently, *Roe v. Crawford* held a Missouri Department of Corrections (MDC) blanket policy prohibiting transportation of pregnant inmates off-site for elective, nontherapeutic abortions unconstitutional.^{lxxxviii} In contrast to the cases rejecting barriers to inmates' access to abortion, *Victoria W. v. Larpernter* affirmed summary judgment and approved Louisiana's prison policy of requiring judicial approval of all elective medical procedures, including abortions.^{lxxxix} *Victoria W.* concluded "the policy of requiring judicial approval of elective medical procedures is here reasonably related to legitimate penological interests. The policy was not promulgated with deliberate indifference to its consequences and was not the direct cause of Victoria's injury."^{xc}

Even when relief is granted, on occasion it can take so long that the woman may have exceeded the time to obtain a legal abortion, or in some second trimester cases the woman may decide to give birth and place the infant for adoption. The procedural history in *Crawford* indicates how difficult it can be for a pregnant inmate to obtain timely relief. Roe asked for an abortion in California on learning she was pregnant, but could not get one before she was transferred to Missouri where her request for an abortion was denied. She was 16-17 weeks pregnant by the time she obtained legal representation and requested the trial court to grant an emergency injunction to permit her to obtain an abortion. Any abortion would have only been legal until week 22. Justice Thomas granted a stay of the injunction, which was vacated by the full Court, allowing Roe to obtain an abortion. Roe then amended her complaint and filed a class action challenging the MDC's policy.

Courts Apply *Turner* rather than *Casey* in Evaluating Constitutionality

Legal advocates for pregnant inmates argue that the standard established by *Turner v. Safley*, which is deferential to decisions by prison administrator should not apply in cases challenging abortion restrictions.^{xc1} Instead, they claim the correct standard is *Casey*'s undue burden test which is more likely to favor the right to obtain an abortion in an incarcerative setting. The rationale for applying *Casey* is that the Supreme Court refused to apply *Turner* in *Johnson v. California*, a case involving the right to be free from racial discrimination in prison.^{xcii} In *Johnson* the Court found freedom from racial discrimination was not inconsistent with incarceration, bears no relationship to the goals of criminal deterrence or social isolation, and implicates no security concerns. By analogy, plaintiffs have argued that a woman's right to choose to terminate her pregnancy also implicates no legitimate penological interests, and therefore should be evaluated by the standard used outside the prison setting. In other words, they contend that *Casey* provides more protection for abortion rights than *Turner*.

Ironically, in *Arpaio*, the correctional defendants argued that the standards in *Casey* and *Turner* should be applied sequentially, apparently believing that *Casey* would approve prison based procedural restrictions, because similar procedures such as waiting periods, mandatory counseling, and parental notifications subject to judicial bypass have been upheld under the undue burden standard. The appellate decision in *Arpaio* rejected this two prong approach, indicating that only one standard should be applied, and then rejected *Johnson* as the appropriate standard.

As a result, *Arpaio* applied *Turner*, which established four criteria for determining the constitutionality of prison regulations:

- Is there a valid rational connection between the prison regulation and the legitimate governmental interest?
- Do alternative means of exercising the right that remain open to inmates?
- What impact will accommodation of the constitutional right have on guards, other inmates, and allocation of prison resources?
- Are there ready alternatives that permit accommodation of the right at "de minimis" cost to valid penological interests

Even using *Turner*, *Arpaio* found a constitutional violation had occurred based on a number of factors 1. the facility indicated no security concern; 2. any cost was de minimis not only due to the low number of requests, but because the regulation required the inmate to reimburse any security and transportation cost, and the facility would have to provide proper pre-natal, delivery and post-natal medical care if no abortion took place; 3. claims that third party liability might arise were vague and unconvincing in light of Arizona law; 4. "an indiscriminate ban on all transportation for non-therapeutic abortions does not allow inmates sufficient alternative means to exercise their right to choose to have an abortion;" and 5. the County has an inexpensive alternative to court orders by administratively deciding requests. The court concluded the County's policy

was an “exaggerated response” which was unconstitutional. *Monmouth* and *Crawford* also applied *Turner* in evaluating restrictions on inmates who wanted to terminate their pregnancies and reached the same result.

Unlike these cases, when *Victoria W.* applied *Turner* to policies requiring a judicial order, it upheld the challenged court order policy. *Victoria W.* emphasized that the inmate had the burden to disprove the validity of the regulation, thereby finding the financial and administrative concerns legitimate, crediting the policy aim of reducing the total number of off-site transports as reducing “the effects on prison resources, inmate security, and potential liability.”^{xciii} *Victoria W.* viewed a court order as a valid alternative means of exercising the abortion rights, while *Monmouth* had considered this insufficient given time constraints on women to obtain legal abortions. However, both *Victoria W.* and *Crawford* explicitly noted that the type of court order rejected in *Monmouth* required inmates to be released on their own recognizance, and therefore was more onerous than a court order authorizing an elective abortion approved in *Victoria W.* Lawyers representing pregnant inmates are likely to argue that the time to obtain any court order is an undue burden when time is of the essence in scheduling an abortion. *Victoria W.* also disregarded the offer to pay for the procedure and security, as ignoring the fact that the prison might be short-handed or be subject to potential liability for the transport.

It is doubtful that under *Casey*’s undue burden analysis, the lengthy delay of the pregnant inmate to see a judge in *Victoria W.* would have been upheld, although in the *Turner* context, *Crawford* gratuitously suggested that a judicial order would have been an acceptable alternative to the blanket prohibition it rejected. Several of the abortion cases involve 7 week delays, which can effectively result in a woman being beyond the legal timing to obtain an abortion if she did not immediately realize she was pregnant, since not all facilities immediately check a woman for pregnancy when she enters. Generally, initial monitoring for pregnancy should be routine in order to ensure that pregnant inmates receive the appropriate prenatal care, particularly when they exhibit a substance abuse problem. In this regard, ABA Criminal Justice Standards on the Treatment of Prisoners, Standard 23-2 on “Intake Screening,” calls for medical and mental health screening as soon as possible upon the prisoner’s admission to a correctional facility, using a properly validated screening protocol, including, if appropriate, special protocols for female prisoners.^{xciv} Regulations mandating that women be tested for pregnancy upon entering any correctional facility would assist women in deciding whether or not to terminate their pregnancy in a timely manner. In future cases, the determination of what standard to apply is likely to remain a central issue.^{xcv}

Abortion as a Serious Medical Need for Eighth Amendment Analysis

In addition to disagreement about what standard should apply to evaluating the abortion rights of pregnant inmates, there are also conflicts about whether abortion is a serious medical need for purposes of Eighth Amendment analysis, an issue that is key when claims are brought under § 1983 alleging damages that result from an inmate’s denial of her right to obtain an abortion or to obtain funding for the abortion or transport. While

Monmouth viewed abortion as a serious medical need, later cases have met with mixed results. For example, *Crawford* specifically held “an elective, non-therapeutic abortion does not constitute a serious medical need, and a prison institution’s refusal to provide an inmate with access to an elective, nontherapeutic abortion does not rise to the level of deliberate indifference to constitute an Eighth Amendment violation.”^{xcvi} Several commentators have critiqued this result, particularly given that giving birth would require many inmates to undergo high risk pregnancies, given their likely histories of substance abuse, poor health and poverty. Further, in many cases the child would be placed in foster care or given up for adoption, which might also impact the often fragile mental health outlooks of these women.^{xcvii}

As with miscarriages and stillbirths, not every barrier to terminating a pregnancy establishes Eighth Amendment liability even if abortion is considered a serious medical need. *Bryant v. Maffucci* affirmed a grant of summary judgment in a § 1983 action where the pretrial detainee failed to establish that the delay in scheduling the abortion was the result of anything more than mere negligence on the part of correctional authorities.^{xcviii} In other words, negligence did not establish a deprivation of due process. The plaintiff’s Eighth Amendment claim failed because the facility’s procedure for termination required only a written request, not permission from either the Department of Corrections or the court. In a related vein, *Gibson v. Matthews* held officials were entitled to qualified immunity and that their actions did not rise to a level of a constitutional violation concerning negligent failure to provide an abortion.^{xcix} Again, the grant of qualified immunity rested on the lack of a clearly established constitutional right at the time of the abortion request, although the court did find abortion was a serious medical need.

Restrictions on Funding the Cost of Abortion, Transportation and Security

The question of funding for inmate abortions is also in dispute. *Monmouth County* held that to the extent that a county’s regulation requiring inmates to obtain their own financing for abortion impinged upon the inmate’s right to make an abortion choice, the regulation was unconstitutional. In the absence of alternative methods of funding, the decision found that the county must assume the cost of providing inmates with elective, nontherapeutic abortions. *Monmouth* was decided after the Supreme Court held a state could withhold funding for elective abortions, which might have the practical consequence of making it impossible for some women to obtain an abortion, but before *Webster v. Reproductive Health Services*, which held a statutory ban on use of public employees and facilities for performance or assistance of nontherapeutic abortions did not contravene the Constitution, and *Rust v. Sullivan*, which upheld a federal regulation prohibiting federally funded medical clinics from counseling or referring women for abortion.^c Although *Crawford* found the inmates’ rights to access abortion services had been violated, it specifically disagreed with *Monmouth* that there was any requirement to fund the abortions or help facilitate the abortion, finding the *Webster* line of cases more in line with current Supreme Court jurisprudence.

A number of states have laws prohibiting the expenditure of public funds for elective abortions. Yet, the typical problem for pregnant inmates is not usually finding a low cost or no cost abortion provider, or a private group willing to fund the abortion, but rather finding a provider that is local when the correctional facility is located in a rural area or a jurisdiction in which opinion heavily favors pro life. In such settings, transport, overnight stays and security costs become primary financial concerns. While holding a blanket policy against transporting women to obtain elective abortions was unconstitutional, *Arpaio* did not question the legitimacy of an Arizona statute that required the pregnant inmate to pay for the cost of security and transportation, as well as for the abortion, and even relied on those facts to support its holding.

In some jurisdictions, it is unclear if security and transport expenses are covered by bans on paying for abortions. For example, the [Bureau of Prison \(BOP\) funds](#) are used to pay for abortion services “only when the life of the mother would be endangered if the fetus is carried to term or in the case of rape.” In all other cases, non-BOP funds must be obtained to pay for any abortion procedure, although the bureau may pay for escorting the woman to the facility where the abortion occurs.^{ci} One article recently questioned whether the BOP abortion regulations satisfy procedural due process as applied in individual cases, suggesting the need for timely notice of the right to choose abortion, defined procedures for doing so, expedited screening by religious counselors, and administrative hearings to review cases.^{cii}

In light of the conflicting decisions, it would be prudent for correctional administrators to review their own regulations carefully to determine whether they hinder an inmate’s right to choose to terminate her pregnancy. Cases in which women have ultimately given birth because of abortion restrictions are likely to result in litigation, whether or not such cases are ultimately successful. While blanket orders essentially prohibiting abortion can be expected to result in denials of qualified immunity, regulations requiring court orders may also produce the same outcome in some jurisdictions.

4. Women’s prisons are often located far from home, depriving them of the opportunity to meet with their families as often as men. Is this a basis for a constitutional challenge? While it is unlikely that a successful constitutional challenge can be raised on these grounds, from a policy perspective it is questionable whether such family separation is beneficial to either most incarcerated mothers or their children. Sensitivity about how family issues affect an incarcerated mother’s programming in prison and her chances of rehabilitation when she returns to the community can result in benefits for the operational management of the institution as well as for the inmates.

Because the number of incarcerated women is smaller than that of incarcerated men, and because there is hesitancy to place women in facilities for men, fewer institutional choices are typically available to women. Therefore, it is not uncommon for women to be located farther from home than men.^{ciii} Although this circumstance might seem ripe for an equal protection challenge such claims often fall prey to penological realities. For example, in *Pitts v. Thornburgh* the court applied heightened scrutiny in a case

challenging general budgetary and policy choices made over decades that resulted in women prisoners being sent out of the District of Columbia and still ruled against the plaintiffs.^{civ}

Pitts reasoned that, unlike *Turner*, the basic policy decision of whether to provide a local women's prison facility "does not directly implicate either prison security or control of inmate behavior, nor does it go to the prison environment and regime." Therefore, it applied the heightened equal protection review which asks if the challenged classification serves important governmental objectives and whether the discriminatory means employed are substantially related to achievement of those objectives.^{cv} Even so, the court upheld closing the local women's institution to provide more housing for men because it satisfied a substantial governmental interest of alleviating overcrowding in men's institutions. As a result, the women were required to serve their sentences in West Virginia, far from home and family. A later attempt to reopen this case was denied in *Pitts v. Thornburgh*.^{cvi}

The Supreme Court's view of the Due Process Clause in a prison setting also has not been proved to be helpful to prisoners because "lawful incarceration brings about the necessary withdrawal or limitation of many privileges and rights, a retraction justified by the considerations underlying our penal system."^{cvii} *Meachum v. Fano*, held that due process did not create a liberty interest in prisoners to be free from intrastate prison transfers, even from a medium to maximum security facility, because this was within the normal limits or range of custody that the conviction has authorized the state to impose.^{cviii} Therefore, a prisoner has no inherent constitutional right to be confined in a particular prison or to be held in a specific security classification. For example, in *Olim v. Wakinekona*, the Court found no constitutional right that would block an interstate transfer from Hawaii to California.^{cix} Yet one could imagine that staying connected to family or meeting reunification plans imposed by dependency courts involving children would be challenging in the absence of correctional initiatives providing access to technology such as teleconferencing or skype as alternatives to visits, or reducing rates for telephoning children. Similarly, denial of placement upon parole in a community corrections program due to an insufficient number of beds or to home detention was not subject to due process protection in *Johnson v. United States*.^{cx}

In *Froehlich v. Wisconsin Department of Corrections*, the children of an incarcerated mother sued to prohibit her transfer to an out-of-state prison.^{cxii} Judge Posner rejected the Eighth Amendment challenge based on cruel and unusual punishment as frivolous because the state is not punishing the children. In other words, the incidental infliction of hardship on a person not convicted of a crime is not punishment within the meaning of the Eighth Amendment. However, the judge considered the transfer to be insensitive, and while recognizing that such an accommodation is not constitutionally imposed on prison officials, he noted "it may be a moral duty." The practical problem is that overcrowding and budget constraints can result in women being sent out of the jurisdiction or to facilities far from home, because there is no constitutional right of either the mother or child to limit such correctional realities.^{cxii}

Relatively few correctional departments or organizations such as [Forever Family in Atlanta](#) and [Get on the Bus in California](#) provide transportation for visits to prisons that are distant from the urban areas in which the families of prisoners reside.^{cxiii}

Administrators do have discretion to ensure such visits are as convenient and child friendly as possible. Indeed, Bangkok Rule 26 indicates that contact with families, including children, “shall be encouraged and facilitated by all reasonable means” and where possible, “measures shall be taken to counterbalance disadvantages faced by women detained in institutions located far from their homes.” Such measures might include evaluating the feasibility of creating partnerships to provide transportation and enhanced parenting programs, with particular attention being given to the difficulties encountered by inmates with children in foster care who must meet court ordered criteria to obtain reunification. Similarly, finding ways to reduce the expense of telephoning is significant to removing a common barrier to maintaining contact with children.^{cxiv} A recent review of good practice in women’s prisons sponsored by the Australian government mentioned “designing all new women’s corrections centres to incorporate the needs of children, including incorporation of community spaces, play areas, additional emphasis placed on visiting areas.”^{cxv} In addition, the report identified good practice as including “locating prison facilities near an urban centre that is most equitable for prisoner families, taking into account the other factors, such as access to education, family and support networks and transport,”^{cxvi} and providing access to skype or teleconferencing,^{cxvii}

Other child friendly programs such as Girl Scouts Behind Bars, or prison nurseries, or overnight or other intensive visiting programs also facilitate family relationships and motivate female inmates. In the January, 2012 issue of the Family Court Review, Dr. Denise Johnston, Executive Director of the Center for Children of Incarcerated Parents, has written an article, *Services for Children of Incarcerated Parents*, that highlights a number of innovative jail and prison programs that further family reunification and identifies the elements that are common to successful programs.^{cxviii} While not all women whose children are in foster care will reunify with their children, visiting remains important in many instances where other family members or friends retain custody of the children. Moreover, for the majority of children of incarcerated mothers who are not in foster care, visiting is also key to facilitating successful reunification. Without connection during imprisonment, it is foolhardy to assume that families will easily reunite when parents return from prison whether or not legal impediments exist.^{cxix}

Because the maintenance of family contacts is also an indicator of a more successful reentry, it has implications for the prison system in lowering the number of women who become recidivists. Therefore, focusing on transitional reentry while women are incarcerated to prepare them to succeed should be viewed as an essential service offered to prisoners even though the absence of such services may not violate any constitutional norm. Many correctional agencies now recognize the importance of forging connections with governmental agencies to enable women to obtain the necessary documentation for housing, health care, child-related services, and other services before leaving the institution, finding this may be as critical to the rehabilitation of female offenders as effective programming. Several urban areas have created

coordinating councils among all of the agencies involved in the criminal justice system to explore how to create better options and fairer treatment of justice-involved women, who are still a small, though growing segment of the incarcerated population. Recognizing the neediness of many female inmates upon release, a few jurisdictions have instituted re-entry courts to focus on services and may involve both probation and parole departments, as well as community correctional placements.^{cxx}

From a public policy perspective, a significant underlying question raised by the imprisonment of women far from home is whether many of them who are nonviolent and are serving lengthy terms under harsh drug laws can be rehabilitated in community correctional facilities located closer to their homes. In that event, they would be able to maintain family ties and would also be more likely to obtain training and jobs that would assist them in their reentry following release. If prison administrators consider such inmates to be good risks for community-based programs without jeopardizing public safety, the chance of obtaining such options is increased, though not every such effort will necessarily be successful.

California provides a prime example of a state trying to cope with a large population of female offenders, many of whom pose a minimal risk to public safety. Several years ago California recognized that nearly half of its female incarcerated population could be housed in the community, but an attempt to house approximately 4500 low risk nonviolent women to community correctional facilities did not succeed, in part because of the lack of facilities that would be available short term for such a dramatically increased population. Relatively few women ultimately benefitted from that initiative. In contrast, major legislative efforts are now poised to radically reduce the female prison population in California against the backdrop of such dire prison overcrowding mainly involving males, that the state must release more than 30,000 prisoners in the next two years.^{cxxi} First, “realignment” pursuant to AB 109 which became effective on October 1, 2011 mandates that individuals sentenced to non-serious, non-violent or non-sex offenses will serve their sentences in county jails instead of state prison and be supervised by probation officers after release.^{cxxii} Realignment affects all prisoners, and the number of female offenders in state custody has already decreased by nearly 3000 in the last year.

Second, in 2010, S.B. 1266 was enacted specifically to permit nonviolent female inmates, pregnant inmates, and male primary caregivers to be released to home, or to authorized residential drug treatment or transitional care facilities so long as they are monitored by a global position system (gps) and have less than two years left to serve on their sentence. Called the Alternative Custody Program (ACP), the legislation amends Penal Code sections 1170.05 and 4532. The Legislative findings justifying the statute could in fact describe the female prison population of most urban states, and concludes “[t]o break the cycle of incarceration, California must adopt policies that facilitate parenting and family reunification.” Approximately 4000 women, nearly half of the California female prison population when enacted, may be eligible for release under this [plan](#).^{cxxiii} However, to date, few have been released under this program.

Practically, the ACP is an alternative to general sentencing reform, which has generated intractable political resistance. Instead, this is a correctional initiative that does not require women to be resentenced. The CDCR prescribes the regulations for the program, and selects the participants who are given credit as if they served their sentence in state prison. One short term consequence is that the CDCR appears to be closing all but one of its mother-infant programs, given the likely assumption that women currently in them will be eligible for release under ACP or sent to the county to serve their sentences under realignment. The ultimate success of the ACP program is unclear, since it is an unfunded mandate which realistically means that women must find their own community resources upon release.

5. Are jails and prisons required to provide visitation? If not, are they inflicting hardship not only on the mother but on the children as well? While visiting is a privilege, not a right, restrictions must be reasonably related to penological goals. From a policy perspective, contact and extended visiting by children strengthen the mother-child bond, improves the mother's attitude in prison, and increases the likelihood of her successful reintegration into the community.

Visiting: The Constitutional Context

Even though visiting is essential to maintaining relationships with family members including children, and may be a practical necessity for mothers who are subject to reunification plans, the Supreme Court has consistently upheld restrictions on contact visiting for inmates regardless of whether they have been convicted of a crime. *Block v. Rutherford* affirmed a blanket prohibition on contact visits for pretrial detainees as an entirely reasonable, nonpunitive response to the legitimate security concerns identified, and therefore as consistent with the 14th amendment.^{cxxiv} The decision specifically noted:

We do not in any sense denigrate the importance of visits from family or friends to the detainee. Nor do we intend to suggest that contact visits might not be a factor contributing to the ultimate reintegration of the detainee into society. We hold only that the Constitution does not require that detainees be allowed contact visits when responsible, experienced administrators have determined, in their sound discretion, that such visits will jeopardize the security of the facility.^{cxxv}

Similarly, *Kentucky Department of Corrections v. Thompson* held the denial of prison access to a particular visitor "is well within the terms of confinement ordinarily contemplated by a prison sentence."^{cxxvi} *Thompson* has been interpreted as rejecting a fundamental right to a particular kind of visit. However, in his concurring decision in *Thompson*, Justice Kennedy recognized that:

[n]othing in the Court's opinion forecloses the claim that a prison regulation permanently forbidding all visits to some or all prisoners implicates the protections of the Due Process Clause in a way that the precise and individualized restrictions at issue here do not.^{cxxvii}

The most recent precedent is found in *Overton v. Bazzetta*, which rejected a constitutional right to visit for individuals who were not immediate family members, upholding restrictions on noncontact visits to prisoners that excluded visits by minor nieces and nephews and children as to whom parental rights had been terminated.^{cxxviii} The regulations did allow non contact visits between inmates and their own children, grandchildren, and siblings, and these provisions as well as rules addressing the criteria for contact visits were not discussed. *Bazzetta* did “not imply, that any right to intimate association is altogether terminated by incarceration or is always irrelevant” to prisoner claims, but sustained the challenged restrictions because they bore a rational relationship to legitimate penological interests and therefore were valid under the *Turner* test. The correctional officials had argued that the regulations promoted internal security by reducing the total number of visitors and by limiting the disruption caused by children, and protected children from exposure to sexual or other misconduct or from accidental injury.

Bazzetta explained: “freedom of association is among the rights least compatible with incarceration. Some curtailment of that freedom must be expected in the prison context.”^{cxxix} Therefore, the fact that the policy relegated some inmates to brief and expensive phone calls or that letters were an inadequate alternative for illiterate inmates and to communicate with young children was not determinative because “*Turner* does not impose a least-restrictive alternative test.” Thus, the impact of limited visitation on children and extended families was not factored into the legal analysis. Pre-*Bazzetta*, *Valentine v. Englehardt* rejected a total ban on visits with the children of prisoners that relied in part on “the judgment of the jailer that it is not in the best interests of the children to visit their parents while those parents are in jail.”^{cxxx} *Valentine* concluded:

The jail officials here have taken it upon themselves to deny all these individuals who are incarcerated for whatever reason and their children one of the most fundamental of all human rights. The rule forbidding incarcerated parents from seeing their children is not only arbitrary, it is an exaggerated response to a concern which does not properly rest with the jail authorities.^{cxxxi}

This result appears to remain valid after *Bazzetta*, since banning all children, even for non-contact visits, is the type of “exaggerated response” that courts find problematic. In other words, because *Bazzetta* did not involve minor children of prisoners, inmates can still be expected to argue that a right to visit with one’s own children should be treated differently by the court, when evaluating restrictions under the *Turner* standard, as well as whether *Turner* should be applied at all. In this regard, in addition to the stress placed on mothers by the absence of visits, it is well recognized that the children, particularly those raised by single mothers, face hardships that are exacerbated by the inability to interact on a personal level.^{cxxxii} The lack of a support network for single mothers living in poverty may hinder their ability to achieve viable alternative placements, especially when siblings are involved, which can result in children being placed in unstable arrangements. This may help to explain why children of female

offenders have a five times greater probability of being in foster care than children of male inmates, along with the fact that unlike most children of male offenders who reside with their mothers in the community, most children of female offenders do not reside with their fathers.^{cxxxiii} Marilyn C. Moses has observed that “a child’s stability appears to be most threatened by a mother’s incarceration” and “that children of incarcerated mothers were four times more likely to be ‘still in’ foster care than all other children,” ultimately aging out at 18.^{cxxxiv} One study found that mothers who had been incarcerated were 2.5 times more likely than fathers to report that their own adult children were incarcerated, and that generally the risk of poor outcomes intensified with maternal incarceration.^{cxxxv}

While *Bazzetta* affirmed a two-year ban on noncontact visits for inmates with two substance abuse violations, it recognized that if a withdrawal of all visitation was permanent or for a much longer period, or arbitrarily applied, the result could be different.^{cxxxvi} Similarly, *Harris v. Donahue* reversed the dismissal of a convicted child molester’s complaint that challenged a policy prohibiting his minor children from visiting him because it raised a due process question.^{cxxxvii} The court noted that because the liberty interest of parents to have a reasonable opportunity to develop a close relationship with their children is important, and visitation may significantly benefit both the prisoner and his family, it would not presume that a security justification or other penological interest supported the restrictive visitation policy. Thus, there may be due process implications in banning visits with one’s own immediate family members that are not implicated when the degree of consanguinity is more attenuated.

In contrast, *Maze v. Tafolla* upheld jail regulations prohibiting pretrial detainees accused of murder from having contact visits with their minor children, finding no precedent to apply *Turner* differently in cases where the inmate was not convicted.^{cxxxviii} Similarly, *Wirsching v. Colorado*, held that prison officials did not violate a convicted sex offender’s rights of familial association and due process by refusing to allow his child to visit where he refused to comply with the requirements of his treatment program.^{cxxxix} However, *Wirsching* prefaced its analysis of the *Turner* factors with the following language that might favor visiting in contexts more likely to resemble those facing nonviolent mothers, particularly those whose parental rights may be terminated due to their inability to maintain a relationship:

We acknowledge at the outset that the interests Mr. Wirsching asserts are important ones. The Supreme Court has held that “parents have a liberty interest, protected by the Constitution, in having a reasonable opportunity to develop close relations with their children.” *Hodgson v. Minnesota*, 497 U.S. 417, 483, 110 S.Ct. 2926, 111 L.Ed.2d 344 (1990) (Scalia, J., concurring in part and dissenting in part, and citing *Santosky v. Kramer*, 455 U.S. 745, 753-754, 102 S.Ct. 1388, 71 L.Ed.2d 599 (1982); *Caban v. Mohammed*, 441 U.S. 380, 99 S.Ct. 1760, 60 L.Ed.2d 297 (1979); and *Stanley v. Illinois*, 405 U.S. 645, 651-652, 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972)). In the prison context, courts and commentators have observed that visitation may significantly benefit both the prisoner and his family.

See *Ky. Dep't of Corr. v. Thompson*, 490 U.S. 454, 465-70, 109 S.Ct. 1904, 104 L.Ed.2d 506 (1989) (Marshall, J., dissenting); see also *Thornburgh v. Abbott*, 490 U.S. 401, 407, 109 S.Ct. 1874, 104 L.Ed.2d 459 (1989) (stating that “[a]ccess [to prisons] is essential ... to families and friends of prisoners who seek to sustain relationships with them”).^{cxl}

Because visiting is a privilege, a number of visiting cases arise in the context of misconduct that triggers a restriction. In *Bazzetta v. McGinnis*, the Sixth Circuit concluded that the Supreme Court had implicitly rejected plaintiff’s procedural due process claim in *Overton v. Bazzetta* and ruled that there was no liberty interest in a permanent but reviewable visitor restriction policy for substance abuse violators.^{cxli} Similarly, in *Poole v. Michigan Reformatory* because a prisoner’s fiancée smuggled contraband, permanent restriction of her visits was appropriate, but the court left open the Eighth Amendment and freedom of association claims regarding a permanent and unreviewable ban on all visitation.^{cxlii} *King v. Caruso*, a suit by the wife of a prisoner who was banned from visiting for conspiring to smuggle a cell phone into the prison was rejected because she was afforded a hearing before being banned.^{cxliii} Moreover, *King* held that a prison visitor was not a member of a protected class for purposes of equal protection, a category that is likely to include all family members.^{cxliv}

In *Hernandez v. McGinnis*, a three year suspension of visitation did not violate the inmate’s right to free association and due process where it was based on the prisoners attempt to bring a weapon into the visiting room.^{cxlv} Finally, *Phillips v. Norris*, held a denial of contact visitation for 37 days during segregation did not amount to atypical and significant hardship for due process purposes, or constitute cruel and unusual punishment.^{cxlvi} Thus, challenges to restrictions related to prisoner and visitor misconduct are typically unlikely to succeed unless they are permanent, with no opportunity for review. However, Bangkok Rule 23 bars disciplinary sanctions for women prisoners that include a prohibition of family contact, especially with children.

Policy Based Visiting Restrictions Under *Turner’s* Discretionary Standard

Bazzetta defers to reasoned choices by correctional officials concerning visiting restrictions. Thus, administrators are not required to impose the restrictions approved by *Bazzetta*. For example, the requirement that children be accompanied by a family member or legal guardian was upheld as reasonable to ensure that the child is supervised by adults who have the child’s best interests in mind. Yet, requiring a family member or guardian to accompany a child is tantamount to prohibiting the visit in many cases. For example, *Clemons v. Mitchell* relied on *Bazzetta* to dismiss a claim that a father was improperly denied a visit by his daughter who was accompanied by the prisoner’s sister who had not been appointed her guardian.^{cxlvii} The designation of additional adults by prisoners subject to correctional approval may accommodate more visits by children, particularly when friends, other caregivers or nonprofit agencies may be able to transport children to a facility for visiting purposes. In this regard, [The Children of Incarcerated Parents Bill of Rights](#) includes the “right to a lifelong relationship with my parent” and urges that jurisdictions focus on rehabilitation for

nonviolent offenders whose children are at risk of becoming the responsibility of the state.^{cxlviii} At a minimum, prison administrators should review their policies to consider the negative effect on rehabilitation caused by extreme restrictions on visiting because female inmates' ties with their children have been recognized as a strong motivation for reducing recidivism. Visiting also allows both mothers and children to better deal with their reactions to separation and loss.

Similarly, Bangkok Rule 28 provides for visits involving children to take place in an environment that is conducive to a positive visiting experience, including with regard to staff attitudes, and shall allow open contact between mother and child, and that visits involving extended contact with children should be encouraged, where possible. Thus, correctional officials should consider programs for overnight visitation, particularly in locations that are far from the communities in which the families of inmates reside. An equal protection challenge to a prison policy that permitted some incarcerated mothers to have overnight visits with children not available to male inmates was rejected in *Bills v. Dahm*.^{cxlix} To the extent such programs exist they are considered privileges, not fundamental rights. For example, *Gordon v. Woodbourne Correctional Facility* cited *Palmer v. Richards* for the proposition that "[i]t is well established that 'there is no liberty interest in participating in the Family Reunion Program' which permits extended visitation of family members including children."^{cl}

Attempts to argue liberty interest in conjugal visits or impregnation have not succeeded because "incarceration is simply inconsistent with the vast majority of concomitants to marriage, privacy, and personal intimacy" resulting in the abridgment of the fundamental right of familial association.^{cli} *Tuvalu v. Woodford* reviewed the cases limiting conjugal and family rights in the context of denying a male inmate's challenge to a revised policy that denied him overnight visits with his family, including a child he had fathered while in a conjugal program in prison, and found that "even assuming the state's 'special relationship' with plaintiff requires the state to assist plaintiff in maintaining his parental role, that relationship does not extend so far as plaintiff proposes."^{clii} In other words, *Tuvalu* cited *Bazzetta's* reliance on the *Turner* factors, and its reasoning that "[a]lternatives to visitation need not be ideal; . . . they need only be available."^{cliii} Thus, the facts that the permitted visits in *Tuvalu* lacked privacy or that phone calls are expensive were not determinative.

After *Bazzetta*, visiting still remains important to ensure that children bond with their mothers, to facilitate family reintegration, and to encourage inmate rehabilitation. As previously mentioned, the decision does not prohibit or discourage the adoption of expansive visiting regulations of both a contact and noncontact nature. However, the scope and nature of those regulations are clearly within the discretion of the prison administrators as long as restrictions are reasonable. Therefore, administrators should review their policies with the understanding that visiting may be the single most important factor stabilizing mental health and supporting reentry.^{cliv}

It should also be noted that not all restrictions on visitors will be upheld under *Turner*. For example, *Burgess v. Lowery* affirmed the trial court's denial of a defendant's

qualified immunity claim in a Section 1983 action because it was clearly established that visitors have a Fourth Amendment right not to be strip-searched in the absence of a reasonable suspicion that they are carrying contraband.^{clv}

6. Do harsh sentencing policies combined with statutes terminating parental rights of incarcerated women violate Due Process or the Eighth Amendment ban on cruel and unusual punishment? In the current litigation framework it is quite unlikely that these claims violate constitutional norms. However, from a policy perspective, they raise issues that administrators should be aware of because they affect the mental outlook of incarcerated mothers and their ability to reintegrate into the community successfully, as well as the ability of their children to have meaningful relationships with them. In addition, such knowledge provides valuable background that informs the interaction of administrators with the community, including faith based organizations to obtain additional resources for incarcerated mothers and their children. In this regard, permitting access to inmates by pro bono legal providers on family matters should also be encouraged.

The Impact of ASFA and Statutes Terminating Parental Rights

Enactment of harsh drug laws, mandatory minimums, and repeat offender statutes has resulted in more women being incarcerated for longer sentences. While state statutes concerning the termination of parental rights vary widely, with relatively few based solely on incarceration for a stated time, the Adoptions and Safe Families Act (ASFA) tightened the timeline for parental termination that existed in most states for children in foster care at the same time that sentences were also increasing. As a consequence, many nonviolent drug offenders who in the past would have been sentenced to probation or community correctional facilities now face lengthy incarceration as well as the possible loss of parental rights.^{clvi} For female inmates with children in foster care, the timeline mandated by ASFA can result in even an 18-month prison sentence being a death knell for parental rights, sentencing mothers to a lifetime without their children. Termination proceedings are mandated if a child spends 15 out of 22 months in foster care, unless the child is in the care of a relative, the family has not been provided with reunification services, or a compelling reason exists as to why it is not in the best interest of the child to terminate the parental relationship. These [exceptions](#) provide some flexibility to avoid termination.^{clvii} But many women do not fit into the exceptions. Moreover, for a number of incarcerated women, their children became subject to dependency court jurisdiction due to their substance abuse even before their incarceration, commencing the termination countdown and increasing the difficulty of meeting any reunification plan within the ASFA deadline. For example, studies of incarcerated mothers in Illinois found that while incarceration was not a significant factor in initiating foster care, women whose incarceration overlapped with their child's stay in foster care were unlikely to be reunified.^{clviii} While ASFA did not appear to be significant in such terminations in Illinois, unlike many other states, the women being studied served very short sentences.

A number of reports and articles have condemned ASFA's impact on terminations of incarcerated parents.^{clix} For example, in the five years after ASFA was adopted, reported cases concerning termination of parental rights increased approximately 250%.^{clx} Single mothers who are incarcerated are disproportionately impacted by ASFA. This occurs in part because the majority of incarcerated women are mothers, many of whom are raising their children alone. Nationally more than 40% of state female prisoners with children reported living with them in single parent households. They are more likely to have their parental rights terminated than male prisoners who are fathers because the children of male inmates overwhelmingly reside with their natural mothers. In contrast, the children of female inmates are more likely to reside with grandparents or other family members, friends, or foster care providers. A BJS report explains that "[m]others and fathers in state prison provided different responses about their children's current caregivers. Eighty eight percent of fathers reported that at least one of their children was in the care of the child's mother, compared to 37% of mothers who reported the father as the child's current caregiver. Mothers in state prison most commonly identified the child's grandmother (42%) as the current caregiver. Nearly a quarter (23%) identified other relatives as the current caregivers of their children."^{clxi} As a result, the children of female inmates have a five times greater probability of being in foster care than the children of male inmates. Another study determined that one of the most significant factors in the doubling of foster care caseloads from 1985 to 2000 was increased female incarceration.^{clxii} However, this disparity does not fit into any current equal protection framework. Elsewhere, I have written that the growing "interface between the criminal and civil court systems may create the equivalent of a legal pincer movement, catching and separating successive generations of women and children in its midst."^{clxiii}

Although termination of parental rights is a major concern for some incarcerated mothers, *Lassiter v. Dept. of Social Services*, rejected any bright line requirement that a state must provide a parent with an attorney in termination proceedings, instead positing a case by case balancing test.^{clxiv} Most states provide an attorney for the court appearance, and *In re "A" Children*, noted it was one of only five states that still follow a discretionary approach.^{clxv} Even so, the difficulty for incarcerated parents in contacting social workers, child protection agencies, and others responsible for parental rights determinations can be daunting if the state only provides counsel when termination proceedings are instituted, and not when dependency jurisdiction begins. Attempts to require the state to provide such legal advice, if not otherwise legislatively mandated, have not proved successful. *Glover v. Johnson*, held the fundamental right of access to courts did not require the state to provide legal assistance for inmates in connection with custody matters.^{clxvi} Moreover, inmates may be faced with a host of other family law issues, including custody fights, kinship or other guardianship requests, or child support orders for which no counsel is provided. In fact, in *Turner v. Rogers*, the Court cited *Lassiter* when it recently adopted a balancing approach in determining whether counsel is required for indigents in civil contempt cases that could result in incarceration for failure to pay child support.^{clxvii}

In order to escape from the mandates of ASFA, many advocates on behalf of incarcerated mothers work to avoid foster care placements by the use of guardianships, which also requires legal assistance. Some programs also attempt to provide services in cases where the children are at risk of foster placements. Women's Prison Association has a number of [programs](#) aimed at justice-involved women and their children.^{clxviii} Faith based programs in the community also may provide services that assist this population.^{clxix} Keeping a child out of governmental supervision may also have the benefit of eliminating any later attempts to recoup payment from incarcerated mothers for such services, an issue that arises with some regularity.

The ABA recently adopted [Resolution 102F](#) to address family law issues of inmates: The resolution encourages bars, bar associations, and law schools to consider and expand initiatives that assist criminal defendants and prisoners in avoiding undue consequences of arrest and conviction on their custodial and parental rights.^{clxx} Such initiatives include: (a) training criminal defense counsel to: 1) ascertain whether their clients have minor children and if so, to ascertain the location of the children; and, 2) to advise clients with minor children as to the consequences of arrest and conviction on their custodial and parental rights and on how to obtain further assistance in avoiding those consequences; (b) to develop models for training lawyers about the collateral effects of arrest and conviction on their parenting rights that can be distributed to bar associations; and (c) to establish programs to provide criminal defendants and prisoners with no cost or low cost legal assistance on family law issues, including the avoidance of foster care through kinship care and guardianship arrangements.

Some jails and prisons already permit student legal clinics or women's bar associations to offer assistance to inmates in their facilities. Such access by legal groups to inmates for family law education and representation should be encouraged by administrators, even though not required. Such relatively minor assistance as providing and notarizing forms that permit inmates to designate individuals to obtain health care or school placement for their children may ensure children can receive services outside of the dependency court context. Educating inmates about the dependency process and other family law matters will also help women know what to expect. The benefit for the correctional facility is such information and assistance will better enable women to focus on their programming.

ASFA became fully operative in 1999, and terminations can occur even if children have no families waiting to adopt them or have reached school age and may be realistically unadoptable.^{clxxi} Such children will remain in foster care without any real possibility of adoption but without the ability of their relatives to obtain assistance to maintain family ties or of their mothers to reunify with them after their release. Ironically, when children age out of foster care, some of them locate and return to the mothers who long ago had their parental rights terminated.

Although ASFA and termination statutes are not unconstitutional, they affect both the incarcerated mothers and their children. Typically, the mother feels guilty about the disruption to her child's life caused by her incarceration and is depressed about her

potential loss of contact with her child. This may have a negative impact on her rehabilitation. While the child is not punished according to the Eighth Amendment, which applies only to prisoners, in reality the child's world may be devastated. Children not only lose contact with their mothers but also may be separated from siblings and placed in unsatisfactory living circumstances, whether with family, friends, or even in some foster care placements. Ultimately, such children are at risk of becoming involved in the juvenile or adult correctional systems. Results from a survey of adult female prisoners who had previously been in foster care paints a grim picture of their youthful experiences, including much higher levels of sexual and physical abuse than found in the general population (eighty-seven percent of female prisoners who spent their childhood in foster care or institutions reported being physically or sexually abused).^{clxxii}

Focusing on the Impact to Children of Incarcerated Parents

Given the incredibly large number of incarcerated inmates, the last five years has witnessed an explosion of interest on children of incarcerated parents, not simply their parents.^{clxxiii} The January 2012 issue of *Family Court Review* features a symposium on Children of Incarcerated Parents which has an introduction written by me that reviews the literature on this topic. Programs to prevent intergenerational criminality are now receiving widespread attention, but without a thorough reconsideration of the sentencing alternatives open to incarcerated mothers and the impact of incarceration on parental rights terminations and on children's living conditions, mothers and children will continue to suffer penalties that are not meted out to males.

Children of incarcerated parents (CIPs) constitute a group, that while diverse, shares many characteristics. Households headed by caregivers who have been arrested have higher levels of substance abuse, domestic violence, and extreme poverty than other households.^{clxxiv} Their children experience more risk factors than other children.^{clxxv} The Center for Disease Control and Prevention has defined [parental incarceration](#) as a adverse childhood experience that can lead to a multitude of health and social problems.^{clxxvi} The impact of maternal incarceration is often a double whammy, since the fathers of these children are also more likely to be imprisoned. Not only will some children be dislodged from their homes, but they may also lose their sole or primary caregiver, and may be separated from their siblings. In fact, one study comparing risk to children from incarcerated mothers and fathers found that children of incarcerated mothers were 2.5 times more likely to report that their adult children were incarcerated than fathers, and that generally the risk of poor outcomes intensified with maternal incarceration.^{clxxvii}

In the short term CIPs face a decline in household income as well as an increased likelihood of poverty. They are also more likely than other children to exhibit antisocial and mental health problems, including post traumatic stress disorder, although any link to parental imprisonment is currently unclear.^{clxxviii} Stigma, humiliation, and shame are common responses to parental incarceration, which is likely why some children are lied to about the whereabouts of their absent parent. However, this does not lessen their

feelings of abandonment, and often such charades are not sustainable. Indeed, some resources provide guidance about how to answer questions children are likely to ask.^{clxxx}

Current Reunification Initiatives

Several states have begun to explore how to avoid the most draconian effects of ASFA on prisoners. For example, New York has enacted what Professor Philip Genty characterizes as an ASFA Expanded Discretion Law in his forthcoming article.^{clxxx} This law permits even women subject to lengthy incarceration to avoid termination in appropriate cases. New York has also created a more global initiative focusing on children of incarcerated parents.^{clxxxi} Similarly, California has enacted a statute requiring dependency court judges to evaluate barriers to reunification posed by incarceration, and to extend ASFA deadlines by six months providing reunification services up to a maximum of 24 months in appropriate cases. In response, the Los Angeles Dependency Court convened an Incarcerated Parents Work Group chaired by Judge Marguerite Downing. Beyond the likely stakeholders such as the Department of Children and Family Services, attorneys for the state, parents and children, service providers, and the Probation Department, representatives from the Sheriff's Department, the California Department of Corrections and Rehabilitation (CDCR), and the warden of California Institute for Women (CIW), which is located approximately one hour from the Dependency Court, regularly attend the monthly meetings, which also include my participation as a law professor.

The working group grapples with issues ranging from logistics to services, and has organized three judicial trainings and a judicial tour of CIW to see the visiting facilities for children and learn more about available programming relevant to reunification plans. The presence of correctional officials is essential to addressing such issues as locating parents, transporting them, providing telephone access to children, and visiting. The warden is also participating in setting up a pilot project at CIW for videoconferencing dependency court hearings. Ultimately, it is hoped that videoconferencing will permit incarcerated parents to participate in hearings without the practical threat of losing their work or housing assignments in prison due to lengthy absences caused by transportation delays to attend hearings in person.

The willingness of the CDCR to interact with the dependency court initiative on family issues may have stemmed in part from its long standing discussions with stakeholders generally concerned about issues affecting justice-involved women who meet biyearly as part of a Gender Responsive Strategies Commission convened by the CDCR. This commitment to gender responsiveness in correctional policy is in line with the responses to a 2000 BOP survey, in which 92% of representatives of state correctional agencies and the Bureau of Prisons stated that women had unique needs that should be addressed by corrections departments. Particularly, in times of budget constraints, administrators should welcome collaborative efforts that can ultimately result in obtaining more resources from the community which may allow them to better utilize their own resources, even if the group members represent a wide range of perspectives

and organizations from outside the correctional community. Thus, officials should consider engaging in partnerships or permitting access to groups that can assist female inmates to meet the three main challenges to preventing termination of parental rights, which have been described as regular contact with a child in foster care; full participation in dependency proceedings, and access to reunification services.^{clxxxii}

Such collaborative efforts may also help to identify resources that will mitigate the collateral consequences of a mother's imprisonment that may practically impact her ability to unite with her children. In other words, even if a single mother avoids termination of parental rights, she may still be denied federal cash assistance and food stamps if she lives in a state that has not opted out of the provision of the Personal Responsibility and Work Opportunity Reconciliation Act, which bars anyone with a drug-related felony conviction from receiving such aid. Since justice-involved women are more likely than their male counterparts to be sentenced for drug-related crimes, this provision disproportionately penalize them and their children. A mother may also face the lifetime 5-year limit for receiving Temporary Assistance for Needy Families, or she may be hampered in obtaining work if she requires drug treatment or cannot obtain child care. A drug conviction may also affect her ability to obtain public housing or assistance to pay for private housing, and generally housing can be a serious barrier to family reunification.^{clxxxiii} Her immigration status may result in her deportation as a result of to her conviction, regardless of whether her children are citizens. Even her educational opportunities may be limited by the Higher Education Act of 1998, which denies eligibility for students convicted of drug offenses.

Welfare reform has also made it more difficult for relatives to receive funding for children in their care without a finding that the child is subject to the jurisdiction of dependency court. Yet, state involvement increases the likelihood of eventual termination, even when it avoids ASFA's timetable. Such legal consequences should be understood by those who design programs and services for justice-involved women and by those who impose conditions of release on women who may not be able to meet them because of child-care constraints.

The ABA recently adopted [Resolution 102E](#) to specifically address many of the family related issues of female inmates discussed in this bulletin.^{clxxxiv} The resolution urges expansion, as appropriate in light of security and safety concerns, of initiatives that facilitate contact and communication between parents in correctional custody and their children in the free community. Such initiatives should:

- (a) to the extent practicable, assign prisoners to a facility located within a reasonable distance from the prisoner's family or usual residence;
- (b) encourage and support no cost or low cost public transportation between urban centers and prisons for families of prisoners;
- (c) revise visitation rules, including those related to hours and attire to facilitate extended contact visits between parents and their minor children, and assure that information is made available to parents regarding opportunities to visit with their children;

- (d) modify visitation areas to accommodate visits by young children;
- (e) provide reasonable opportunities for inmates to call and write their minor children at no cost or at the lowest possible rates;
- (f) seek to reduce barriers that limit opportunities for children in foster care to visit their incarcerated parent, and make available services to help address the trauma that these children face resulting from parental incarceration;
- (g) adopt or expand programs on parenting and parenting skills available to incarcerated prisoners with minor children, and provide their family members with services designed to strengthen familial relationships and child safety, permanency, and well being outcomes;
- (h) provide the opportunity for incarcerated parents to participate meaningfully in dependency-related court proceedings involving their children and ensure competent and consistent legal counsel to aid them in these cases;

In addition, to the extent consistent with security, safety, and privacy concerns, the resolution urges adoption of policies and procedures that require child welfare agencies to track the incarceration status of the parents of children in foster care, and that facilitate communication between the child welfare system and the corrections system regarding the incarceration status of the parents, the location of the parents' correctional facilities, and subsequent transfers of the parents to other correctional facilities. The resolution also urges states to clarify that incarceration alone should not be grounds for judicial termination of parental rights, and that incarceration does not negate child welfare agency requirements to provide reasonable efforts that may aid in facilitating safe, successful, and appropriate parent-child reunification. Finally, resolution 102E urges local governments to explore the use of innovative means of providing opportunities for parent/child contact and communication, including but not limited to intergovernmental contracts, and alternatives to incarceration such as privately operated residential facilities.

The discretion given to correctional officials under *Turner* makes these issues ones that correctional officials should consider when reviewing their practices and policies related to incarcerated mothers and many are relevant to incarcerated fathers as well.

Conclusion

While issues concerning prenatal care, shackling of pregnant inmates and termination of pregnancy are most likely to generate litigation, issues concerning the relationship of female offenders and their children, whether related to visiting, reunification, or termination of parental rights are most likely to have day to day impact on the operation of female facilities. The information in this bulletin is intended to provide a resource for evaluating issues that may result in litigation, as well as to develop policies and practices that improve the likelihood females will successfully completing programming that facilitates their successful reintegration into the community and reunification with their minor children.

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- ⁱ Barbara Bloom, et al., *Gender-Responsive Strategies: Research, Practice and Guiding Principles for Women Offenders*, Legal Appendix by Professor Myrna Raeder (Washington, DC: US Department of Justice, National Institute of Corrections, 2003), <http://nicic.org/pubs/2003/018017.pdf>.
- ⁱⁱ See United Nations General Assembly, “The Bangkok Rules for Treatment of Women Prisoners, Rules 2.2, 58, 63, and 64,” (adopted by consensus 2010), <http://www.un.org/en/ecosoc/docs/2010/res%202010-16.pdf>, accessed June 1, 2012.
- ⁱⁱⁱ See answer to question 1, below.
- ^{iv} Chandra Villanueva, Sarah From, and Georgia Lerner, *Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives* (New York: Women’s Prison Association, 2009), <http://wpaonline.org/pdf/Mothers%20Infants%20and%20Imprisonment%202009.pdf>.
- ^v See Mary W. Byrne, et al., “Maternal Separations During the Reentry Years for 100 Infants Raised in a Prison Nursery,” *Family Court Review* 50:77-90, 2012; Mary W. Byrne, et al., “Intergenerational Transmission Of Attachment For Infants Raised In A Prison Nursery,” *Attachment and Human Development* 12:375-93 2010, <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2942021/>, accessed June 1, 2012.
- ^{vi} See Villanueva, *supra* note 4, at 30-32.
- ^{vii} See, e.g., General Assembly of the Commonwealth of Pennsylvania, *Report of the Advisory Committee: The Effects of Parental Incarceration on Children, specifically Needs and Responsive Services, Recommendations Concerning Visiting and Communications Policies and Practices, and Parental Rights, Foster Care and Permanence* (Harrisburg, PA: Joint State Government Commission, 2011). <http://jsg.legis.state.pa.us/resources/documents/ftp/documents/children%20of%20incarcerated%20parents.pdf>.
- ^{viii} See *Will v. Michigan Dep’t of State Police*, 491 U.S. 58, 66 (1989).
- ^{ix} See *Monell v. Department of Social Services*, 436 U.S. 658, 690 (1978).
- ^x See *Caiozzo v. Koreman*, 581 F.3d 63, 71 (2d Cir.2009), citing cases and relying on dicta in *Bell v. Wolfish*, 441 U.S. 520, 535 (1979).
- ^{xi} See *Monell v. Department of Social Services*, 436 U.S. 658 (1978).
- ^{xii} See generally *Farmer v. Brennan*, 511 U.S. 825 (1994); *Estelle v. Gamble*, 429 U.S. 97 (1976).
- ^{xiii} See *United States v. Sanchez*, 53 M.J. 393 (2001).
- ^{xiv} 509 U.S. 25, 36 (1993).
- ^{xv} *Ashcroft v. Iqbal*, 556 U.S. 662, 676-77 (2009).
- ^{xvi} See 42 U.S.C. § 1983, Claims Against Administrators and Policymakers, *infra* for examples.
- ^{xvii} *Harlow v. Fitzgerald*, 457 U.S. 800 (1982).
- ^{xviii} See *Owen v. City of Independence*, 445 U.S. 622, 649–50 (1980).
- ^{xix} *Mitchell v. Forsyth*, 472 U.S. 511, 530 (1985).
- ^{xx} 131 S. Ct. 884 (2011).
- ^{xxi} 446 U.S. 635, 640 (1980).
- ^{xxii} See *Saucier v. Katz*, 533 U.S. 194 (2001).
- ^{xxiii} *Pearson v. Callahan*, 555 U.S. 223 (2009).
- ^{xxiv} 521 U.S. 399 (1997).
- ^{xxv} 534 U.S. 61 (2001).
- ^{xxvi} 132 S.Ct. 617 (2012).
- ^{xxvii} See United Nations General Assembly, *The Bangkok Rules for Treatment of Women Prisoners*, Rule 24 (United Nations General Assembly, 2010), <http://www.un.org/en/ecosoc/docs/2010/res%202010-16.pdf>.
- ^{xxviii} See generally Institute on Women and Criminal Justice, *Laws Banning Shackling During Childbirth Gaining Momentum Nationwide*, (New York: Women’s Prison Association, 2011), http://www.wpaonline.org/pdf/Shackling%20Brief_final.pdf.
- ^{xxix} Elizabeth Alexander, “Unshackling Shawanna: The Battle Over Chaining Women Prisoners During Labor and Delivery,” *University of Arkansas at Little Rock Law Review* 32:435-59, 2010.

^{xxx} 42 U.S.C. § 1997e(a). The PLRA also includes limitations on attorney's fees; requires prisoners proceeding *in forma pauperis* to pay the full filing fee out of a percentage of their prison trust account; requires prisoners to pay the full amount of any cost assessed against them out of their prison trust account; revokes, with limited exception, *in forma pauperis* privileges for any prisoner who has filed three or more lawsuits that fail to state a claim, or are malicious or frivolous; and requires a showing of physical injury for recovery of damages for mental or emotional injury. Cf. Amy Petre Hill, "Death Through Administrative Indifference: The Prison Litigation Reform Act Allows Women to Die in California's Substandard Prison Health Care System," *Hastings Women's Law Journal* 13: 223-259, 2002.

^{xxxi} See generally 2003 Legal Appendix, *supra* note 1, at 116.

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^{xxxviii} See *Villegas v. Metropolitan Government of Davidson County*, 789 F.Supp.2d 895, 918-20 (M.D.Tenn. 2011); Brief of Amici Curiae National Perinatal Association, American College of Nurse Midwives, American Medical Women's Association, Rebecca Project for Human Rights, *et al*, in Support of Appellee's Petition for Rehearing En Banc in *Nelson v. Correctional Medical Services*, 2008 WL 4127217; see also Geraldine Doetzer, "Hard Labor: The Legal Implications of Shackling Female Inmates During Pregnancy and Childbirth," *William & Mary Journal of Women & the Law* 14:363-92, 2008; Jenni Gainsborough, "Women in Prison: International Problems and Human Rights Based Approaches to Reform," *William & Mary Journal of Women & the Law* 14:271-304, 2008; Dana Sichel, "Giving Birth in Shackles: A Constitutional and Human Rights Violation," *American University Journal of Gender, Social Policy & the Law* 16:223-55, 2008; Dana Sussman, "Bound by Injustice: Challenging the Use of Shackles on Incarcerated Pregnant Women," *Cardozo Journal of Law & Gender* 15:477-502,2009; cf. Priscilla Ocen, "Punishing Pregnancy: Race, Incarceration and the Shackling of Pregnant Prisoners," *California Law Review* 100:1-54, 2012 (arguing for a more flexible approach to Eighth Amendment analysis of shackling based on her view that this harsh practice derives from attempts to regulate and punish black women's childbirth in the historic context of slavery, convict leasing, and chain gangs).

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